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**NAVAL
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MONTEREY, CALIFORNIA

THESIS

**A BUSINESS OF SECURITY: APPLYING AN
ECONOMIC MODEL TO HUMAN TRAFFICKING IN
OREGON**

by

Thanh N. Vo

December 2016

Thesis Advisor:
Second Reader:

Carolyn Halladay
Thomas Young

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**A BUSINESS OF SECURITY: APPLYING AN ECONOMIC MODEL TO
HUMAN TRAFFICKING IN OREGON**

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Captain, Oregon Army National Guard, Salem, Oregon
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Submitted in partial fulfillment of the
requirements for the degree of

**MASTER OF ARTS IN SECURITY STUDIES
(HOMELAND SECURITY AND DEFENSE)**

from the

**NAVAL POSTGRADUATE SCHOOL
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ABSTRACT

Human trafficking is the second-largest criminal industry in the world and has become the fastest-growing crime today, according to the U.S. Department of Health and Human Services. Many policies have attempted to reduce human trafficking through under-resourced initiatives and social services. This thesis explores whether applying an economic supply and demand model to human trafficking at the state level would reduce the prevalence of human trafficking. Using an economic supply and demand model, the research evaluates current literature and existing national and state policies within Oregon, analyzing weaknesses and gaps. The thesis presents policy analysis under a qualitative cost-benefit lens to assess economic model variables applied to state level policies.

The conclusion is that existing anti-human trafficking policies in Oregon are lacking in instilling risks and costs associated with conducting the criminal behavior. Supply and demand actors in human trafficking are operating relatively unhindered in Oregon, which has led to a growth of the problem in the state. Thus, a three-pronged approach built around an applied economic supply and demand model is recommended to help reduce human trafficking in Oregon: reduce costs to victims, increase costs to suppliers, and increase costs to buyers.

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LIST OF ACRONYMS AND ABBREVIATIONS

BOLI	Bureau of Labor and Industries
CSEC	commercial sexual exploitation of children
FBI	Federal Bureau of Investigation
H.E.A.T.	Human Exploitation and Trafficking
HTRS	Human Trafficking Reporting System
I-5	Interstate-5
ICE	Immigration and Customs Enforcement
ISIS	Islamic State
LTTE	Liberation Tigers of Tamil Eelam
NGOs	non-governmental organizations
OATH	Oregonians Against Trafficking Humans
OHTTF	Oregon Human Trafficking Task Force
ORS	Oregon Revised Statute
PROTECT Act	Prosecutorial Remedies and Other Tools to End the Exploitation of Children Today
RICO	Racketeering Influenced and Corrupt Organizations Act
SB	Senate Bill
SBAD	Sex Buyer and Accountability Diversion Program
The Protocol	The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children
TVPA	Trafficking Victims Protection Act

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EXECUTIVE SUMMARY

Human trafficking is undoubtedly a horrid, vile crime that exploits vulnerable people into forced sex or labor. Therefore, it is unsurprising that human trafficking is known as modern day slavery. Criminals and crime organizations all over the world are engaged in human trafficking, making it the fastest growing crime worldwide, second only to drug trafficking.¹ Profits from human trafficking benefit not only traffickers and criminal organizations; there have been links between human trafficking profits and funding of terrorist organizations, making it not only a real threat to human securities and freedoms, but to national security at large.

Human trafficking is a criminal activity—a criminal industry—which operates similarly to any other legitimate industry. For this reason, macro-economic theory is relevant. Specifically, supply and demand actors and the factors that influence the shift of supply and demand curves provide guidance for understanding the relationship between the market for and prevalence of human trafficking. Supply and demand actors evaluate their behavior and actions based on cost-benefit analysis and choice—deciding whether to engage in or using human trafficking based on benefits gained (profitability, cheap labor, sex, etc.) compared to risks and costs (imprisonment, fines, etc.).

This thesis evaluates Oregon’s response to human trafficking under this premise and assesses the effectiveness of Oregon’s anti-human trafficking policies and efforts economically from the perspective of a cost-benefit analysis. The hypothesis presented in this thesis argues that Oregon is not currently doing enough to deter either the supply or demand side of the human trafficking market by allowing a low-risk, high-profit industry to thrive. This thesis presents analysis and research discussing how the low-cost, low-risk activity of human trafficking is a lucrative and attractive crime for both traffickers and users.

¹ “What is Human Trafficking? Human Trafficking Fact Sheet,” CASEAct.org, last modified in 2012, <http://www.caseact.org/learn/humantrafficking/>.

One challenge relating to this research lies in the lack of adequate statistical data regarding human trafficking both in Oregon and as a whole. Much of this dearth is due to the hidden nature of human trafficking and the difficulty of identifying the crime and its victims. In Oregon, statistical data regarding human trafficking victims outside of major metropolitan areas, primarily Portland, are lacking. Most data focus on sex trafficking victims, especially minors. Additionally, the awareness around human trafficking of the general public and law enforcement is limited. Thus, the data provided in this research are pulled in bits and pieces from a variety of sources to support the research as a whole.

However, an assessment of human trafficking in Oregon using supply and demand markers identifies that the market is thriving within the state. The cultural and legal contexts of the state have led to an allowance of the human trafficking market to infiltrate the commercial sex and labor industries unique to Oregon. Oregon's numerous strip clubs provide a safe cover for sex trafficking, while Oregon's agricultural and blue-collar industries (fishing, forestry, etc.) lack sufficient oversight and, thus, unknowingly tolerate labor trafficking.

This thesis recommends a series of recommendations under a three-pronged approach based on influencing supply and demand actors through cost-benefit analysis. By reducing costs allocated to victims of human trafficking, increasing costs to traffickers (i.e., the supply curve) and increasing costs to buyers (i.e., the demand curve).

This thesis also acknowledges that there is no comprehensive policy or set of policies to reduce human trafficking worldwide, or even nationally. The contextual and social understandings of each region must be taken into consideration in order to create dynamic and successful anti-human trafficking policies. However, the foundation for these policies can, and should, evaluate the contextual cost-benefit scenarios of supply and demand actors of human trafficking in order to influence the market and reduce the number of commodities in the market, or in this case human trafficking victims.

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Upon entering this program nearly a year and a half ago, I was intimidated by the idea of a master's program filled with career homeland security professionals whom I believed much more experienced and educated than I was in the field. While that turned out to be true and still remains true, the knowledge I gained from my cohort peers and instructors has been eye-opening. To my peers and cohorts: I am forever thankful for the relationships we have developed and all that I learned from you. I am glad we went through this journey together.

This thesis and my completion of studies would not have been possible without the opportunity provided me by the Oregon National Guard. I owe a debt of gratitude to those who allowed me to leave work so many times for weeks, and to my co-workers who picked up the slack.

I want to also thank the faculty of CHDS and NPS for both an academically rigorous, as well as life-changing, program. The skills I learned in research and questioning the world at a deeper level have completely changed my perspectives. And yes, now everything is framed under Social Identity Theory, Branders. The influence of this program will carry me throughout my life.

Much gratitude goes to both Carolyn and Tom for guiding me through the challenges of this thesis journey. Although it was wrought with mental anguish, crippling writer's block, and the occasional debilitating stress, your help in cleaning up my thesis and insightful observations allowed me a thesis I am proud of completing.

To my son, Oliver: Your birth during this time completely opened my eyes to why I do everything I do and why I pushed to complete this program. Though I missed you sorely each time I was gone, I know that what I learned is valuable in helping me make a better world for you, even if it's just our little slice of it. To my wife, Margaret: Thank you for all your support and words of encouragement during this time. I would never have accomplished this without you. And even when you had so much more to worry about, you still supported me. I'll never forget that.

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I. INTRODUCTION

We cannot rely upon the silenced to tell us they are suffering.

— Hanan Ashrawi

Nelson Mandela once said: “[W]here globalization means, as it so often does, that the rich and powerful now have new means to further enrich and empower themselves at the cost of the poorer and weaker, we have a responsibility to protest in the name of universal freedom.”¹ Certainly, the age of globalization poses particular risks to the poorer, the weaker, and the more exploitable populations of the world. As globalization continues to reduce barriers in trade—increasing technological and economic access worldwide, opening borders, and improving communications technologies, infrastructure, and transportation—human trafficking has become the “fastest growing and second largest criminal industry in the world today.”² As the globalization of human trafficking continues, the United States and other international powers have an increasing responsibility to protect the freedom and security of all people.

A. RESEARCH QUESTION

How would applying an economic supply and demand model to human trafficking at the state level reduce its prevalence?

B. PROBLEM STATEMENT

The profitability of human trafficking is an estimated multi-billion dollar industry.³ The Department of State has identified that not only international or

¹ Nelson Mandela, “Speech on Receiving the Freedom Award from the National Civil Rights Museum,” *Nelson Mandela Foundation*, last modified November 22, 2000, http://db.nelsonmandela.org/speeches/pub_view.asp?pg=item&ItemID=NMS919&txtstr=22+November.

² “Human Trafficking Fact Sheet,” CASEAct.org.

³ “ILO Says Forced Labour Generates Annual Profits of US\$ 150 Billion,” *International Labour Organization*, last modified May 20, 2014, http://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_243201/lang--en/index.htm.

transnational criminal organizations, but also terrorist and insurgent groups worldwide, such as the Islamic State and Boko Haram, capitalize on trafficking.⁴ The International Labor Organization estimates 21 million victims of human trafficking worldwide.⁵ For a number of reasons, the estimated number of human trafficking victims in the United States is unclear, but estimates range as low as 14,500⁶ to as high as 300,000 victims,⁷ with about 50,000 people being trafficked into the United States from other countries.⁸

The United States has adopted a number of policies to help combat human trafficking. The *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children* (“The Protocol”) is a United Nations “international agreement to address the crime of trafficking in persons, especially women and children, on a transnational level.”⁹ The Protocol establishes common language, definitions, and directives in the response and handling of trafficking in persons, and includes methods to prevent trafficking, punish traffickers, and protect victims.¹⁰ In adopting the anti-trafficking treaty, the United States enacted the Trafficking Victims Protection Act (TVPA) in 2000, which reflected the initiatives of the Protocol and its concepts of prevention, punishment, and protection.¹¹ Unfortunately, many states lack adequate legislation or fail to meet the standards of the Protocol and TVPA. Oregon, for example,

⁴ Department of State, *Trafficking in Persons Report* (Washington, DC: Department of State, 2015), 37, <http://www.state.gov/j/tip/rls/tiprpt/2015/>.

⁵ “Forced Labour, Human Trafficking and Slavery,” *International Labour Organization*, accessed January 8, 2016, <http://www.ilo.org/global/topics/forced-labour/lang--en/index.htm>.

⁶ John Picarelli and Anna Jonsson, *Fostering Imagination in Fighting Trafficking: Comparing Strategies and Policies to Fight Sex Trafficking in the U.S. and Sweden*, Report No. 223060 (Washington, DC: Government Printing Office, 2008), 15.

⁷ Louise Shelley, *Human Trafficking: A Global Perspective* (New York: Cambridge University Press, 2010), 230.

⁸ John T. Picarelli, “Trafficking in Persons in the Americas: An Overview,” in *Human Security, Transnational Crime and Human Trafficking: Asian and Western Perspectives*, eds. Shirō Ōkubo and Louise Shelley (New York: Routledge, 2011), 186.

⁹ Janice G. Raymond, “Guide to the New UN Trafficking Protocol,” *Coalition Against Trafficking in Women*, 2000, <http://www.catwinternational.org/Home/Article/83-guide-to-the-new-un-trafficking-protocol>.

¹⁰ “UN: Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children,” United Nations, 2000, <http://www.osce.org/odihr/19223?download=true>.

¹¹ Jared R. Rayborn, “Regulated Prostitution as a Component in the Fight Against Human Trafficking in Oregon,” *Willamette Law Review* 115, Fall 2013: 11.

falls short of the requirements established in the TVPA. Shared Hope International evaluated Oregon as a B-grade state for its human trafficking legislation, meaning improvement is needed for combating human trafficking.¹²

The United States has also passed multiple Reauthorization Acts and various other Acts to supplement the TVPA. The Trafficking Victims Protection Reauthorization Act of 2003 established the civil right for victims to sue their traffickers.¹³ The Reauthorization Act of 2005 included a program to shelter minor human trafficking survivors and allowed grants for states to assist both state and law enforcement initiatives to combat human trafficking.¹⁴ The Reauthorization Act of 2008 integrates new prevention strategies, such as requirements for information about workers' rights to all applicants of jobs and education-based visas.¹⁵ The Reauthorization Act of 2013 reinforced programs ensuring United States citizens embargo the purchase of products made by human trafficking victims.¹⁶ The Prosecutorial Remedies and Other Tools to End the Exploitation of Children Today, or PROTECT, Act of 2003 created increased penalties for people who engage in sex tourism with children both in and outside of the United States.¹⁷

Most federal policies focus on providing support or protection for victims or are aimed at prosecution. In Fiscal Year 2014, the Department of Justice convicted 184 traffickers, and federal grant-supported non-governmental organizations (NGOs) provided aid to more than 1,000 trafficked individuals.¹⁸ In terms of the staggering numbers of estimated worldwide victims, and even in light of the more than 20,000

¹² "Oregon Report Card 2015," Shared Hope International, accessed March 21, 2016, http://sharedhope.org/PICframe5/reportcards/PIC_RC_2015_OR.pdf.

¹³ "Current Federal Laws," *Polaris*, accessed January 8, 2016, <https://www.polarisproject.org/what-we-do/policy-advocacy/national-policy/current-federal-laws>.

¹⁴ *Ibid.*

¹⁵ *Ibid.*

¹⁶ *Ibid.*

¹⁷ *Ibid.*

¹⁸ Department of State, *Trafficking in Persons Report*, 353–354.

reported calls to a national victims' hotline,¹⁹ these conviction rates and provision of aid are minor.

The problem extends beyond the sheer numbers of unserved and underserved victims, however. Although the TVPA and federal legislation are, in theory, enacted to provide protection for victims and uphold victim rights, in practice these laws often fail to adequately protect victims, often criminalizing the victims over the traffickers. As Lee indicates in *Human Trafficking*, although policies and laws establish trafficked persons as victims who may receive some "protection and temporary residency if they agree to testify against their traffickers, many are arrested and detained as illegal immigrants rather than as legitimate victims of crime."²⁰

The model of supply and demand is a fundamental concept in market macroeconomics where prices for goods or services vary through an interactive offer and purchase via supply and demand until the market reaches equilibrium. Because of globalization, the price of industry goods is affected worldwide by free markets, trade, and economic competition.²¹ As human trafficking grows into a criminalized industry, it too is impacted by supply and demand. Shelley notes that demand contributes to the growth of human trafficking and makes it more profitable to traffickers; as consumers always want products at lower prices, they are willing to buy products produced by sweatshops or eat at restaurants that employ trafficked workers.²² With higher demand, there is supporting evidence of the creation of greater supply, which would allow a higher market price and, thus, increased profitability for traffickers. As millions of people across the world are impacted by natural disasters and regional conflicts, human traffickers exploit desperate or displaced people.²³

¹⁹ "Hotline Statistics," *National Human Trafficking Resource Center*, accessed January 8, 2016, <http://traffickingresourcecenter.org/states>.

²⁰ Maggy Lee, ed., "Introduction: Understanding Human Trafficking," in *Human Trafficking* (Portland: Willan Publishing, 2007), 12.

²¹ Shelley, *A Global Perspective*, 37.

²² *Ibid.*, 39.

²³ *Ibid.*, 38.

If human trafficking were viewed as an established, but criminalized, industry, stressors on the economic model of supply and demand would affect it. The supply, or “product,” of humans is heavily managed and provided by suppliers, or traffickers, to meet the demand, or employers and consumers of labor and sex trafficking.²⁴ This economic model view of human trafficking as a market allows the application of economic approaches to deterring criminal behavior.²⁵

As scholars have recommended an economic approach to combating human trafficking, local and state level officials must assess the feasibility of implementing the proposals suggested to determine if applying an economic model could reduce the prevalence of human trafficking. Ideally, an economic-based understanding of human trafficking aims to attribute more comprehensive policies to this nuanced, complex crime and remove the emotive, humanitarian focus from sensationalizing the issue. This thesis applies economic model theories against human trafficking within the state of Oregon in order to provide recommended policies based off economic approaches to deter criminal behavior, evaluating fact-driven approaches to combating human trafficking.

C. LITERATURE REVIEW

Human trafficking, also known as modern-day slavery or trafficking in persons, is a deep, multi-faceted, and complex topic. Many researchers and scholars have contributed to the discussion of human trafficking, its causes, and how to fight it. Though there are many scholars in the field, a few notable and prominent authors contribute substantially to human trafficking literature and its wide-ranging outlooks. Human trafficking studies are not isolated to individual countries or regions. Although no country officially recognizes slavery as legal, the Department of State’s 2015 *Trafficking in Persons Report* indicates that virtually every country in the world suffers from the

²⁴ Elizabeth M. Wheaton, Edward J. Schauer, and Thomas V. Galli, “Economics of Human Trafficking,” *International Migration* 48, no. 4 (2010), 117.

²⁵ Jessica Schaffner, “Optimal Deterrence: A Law and Economics Assessment of Sex and Labor Trafficking Law in the United States,” *Houston Law Review* (2014), Hein Online.

exploitation of human trafficking within their borders, whether victims come from, end up in, or pass through a country, making human trafficking a globally studied issue.²⁶

This section will focus solely on two main sub-literature areas of human trafficking in academia. These two main sub-sections will drive the remainder of the thesis in assessing, evaluating, and providing recommendations for public policy and legislation under the context of an economic supply and demand model. Thus, the two main sub-sections will review human trafficking literature in the realm of regional or international public policy and legislation analyses as well as globalization and economic supply and demand as it relates to human trafficking.

1. Regional or International Public Policy and Legislation Analyses

This sub-literature of human trafficking in academia is oriented toward the international and national legislation regarding human trafficking, evaluation of efforts for ending victimization and trafficking, and assessment of the prosecution of traffickers. Some authors focus on regional or specific country assessments of the human trafficking problem in that area and assessments of their policies, offering perhaps a comparative analysis for other regions or countries to evaluate. Heavy focus is placed in regions with a high incidence of human trafficking, such as Southeast Asia and Eastern European countries. There is less literature focusing on more Western-influenced countries and those that do discuss human trafficking in terms of illegal migration, immigration control, and human trafficking victim use in prosecutions.

Louise Shelley, one of the most prominent and leading scholars on human trafficking, addresses numerous aspects of human trafficking and the variety of its sub-components. It is difficult to find any scholarly literature on human trafficking that does not reference or incorporate the works of Shelley in its writings. As a professor at George Mason University and the founder and director of the Terrorism, Transnational Crime and Corruption Center, she has written extensively on the topics of organized crime, terrorism, human trafficking, and finance networks and has been an international and media speaker on these topics, including CNN, NPR's Marketplace, PBS, and

²⁶ Department of State, *Trafficking in Persons Report*.

conventions throughout the world. Shelley is a premier author in human trafficking and is referenced frequently by other scholars in human trafficking academia. Part of the reason there is less literature focusing on Western-influenced countries is because, as Shelley writes, three quarters of the world's human trafficking victims originate in Asia.²⁷

Mary Bosworth, a Professor of Criminology at Oxford, has contributed numerous books and articles addressing human trafficking from the perspective of border security, citizenship, and immigration. She looks at human trafficking victims in Britain and the response of the government in handling victims.²⁸ She argues that the strength of a democracy is measured by how it cares for the minorities and margins of society, such as those who are victims of human trafficking. She asserts in her writings that the best litmus test to gauge a country's humanity and decency is through its prisons, failed asylum-seeker and migrant institutions, and psychiatric hospitals.²⁹

Some literature compares the Protocol to individual country responses to human trafficking and their legislation associated with protecting victim rights, punishing traffickers, and preventing further human trafficking crimes. The Department of State *Trafficking in Persons Report*, for example, provides an extensive, although by no means exhaustive, list on the countries of the world and their efforts against human trafficking. In its assessment of protecting human security, the Department of State ranks every country on a four-tier system based on the endeavors and extent to which they take responsibility of combating human trafficking.³⁰ These include measures such as enacting laws prohibiting "severe forms of trafficking in persons" and implementing human trafficking laws that deal with prosecution of human trafficking crimes in the country and sentencing of traffickers.³¹

²⁷ Shelley, *A Global Perspective*, 141.

²⁸ Mary Bosworth, "Immigration Detention in Britain," in *Human Trafficking*, ed. Maggy Lee (Portland: Willan Publishing, 2007), 159.

²⁹ *Ibid.*, 159.

³⁰ Department of State, *Trafficking in Persons Report*, 45–46.

³¹ *Ibid.*

The Department of State's *Country Reports on Terrorism* evaluates country efforts in preventing and fighting terrorism and, in the cases of some countries, legislation that affects human trafficking. Brazilian authorities, for example, have been working with the United States and other concerned nations to combat document fraud, which contribute to human smuggling networks for either terrorist and criminal moves or human trafficking networks.³² Shelley also addresses trafficking in Europe, assessing numerous countries, noting that no European country has curbed human trafficking through effective policies. She notes that countries like the Netherlands, which legalized prostitution, and Sweden, which criminalized the purchase of sexual services have seen no decrease in human trafficking.³³

Oregon's Willamette University College of Law released a report completed by the school's International Human Rights Clinic, which was composed of law students representing clients in different projects or cases involving international law, namely human rights and immigration. Because the report was compiled to support the clients of the school's clinic, the report focused on human trafficking problems worldwide and in Oregon specifically, as well as evaluating federal and Oregon-specific legislation. Nearly all the clients of the clinic were seeking asylum for persecution abroad or protection as human trafficking victims.

This report is well referenced in other reports and literature involving human trafficking, victim rights, and human security legislation, such as Congressional Research Service reports and Oregon-focused literature. The legal analysis of the national legislation assesses the effectiveness of the federally-enacted laws tackling human trafficking in accordance with the minimum requirements of the Protocol. In essence, the report notes that although there is federal legislation that mandates resources for combating human trafficking and criminalizing activity relating to the trafficking of

³² Department of State, *Country Reports on Terrorism* (Washington, DC: Department of State, 2014), 259, <http://www.state.gov/documents/organization/239631.pdf>.

³³ Shelley, *A Global Perspective*, 206.

human beings, implementation of the laws and passage of individual state laws fail to provide successful coordinated efforts to fight human trafficking.³⁴

2. Globalization and Economic Supply and Demand

The basis of the law of supply and demand establishes that the market price of a good is influenced by both its supply and demand, which is a fundamental model in economics.³⁵ The law expects that the ideal price is at equilibrium at the point where supply meets demand, which establishes the equilibrium quantity of a good at that equilibrium price.³⁶ Thus, when a shift in supply or demand occurs, it affects the price and, accordingly, the quantity of a good. If a shift occurs calling for lower demand, this will cause a reduction in equilibrium price (and quantity) to account for the lower demand, even if there is no change in supply.³⁷ On the other hand, if a shift occurs that reduces the supply, this will increase the price if there is no change in demand, but reduce the quantity of the good.³⁸ Therefore, if both supply *and* demand are reduced, the shift would cause a reduction in equilibrium quantity of the good and price is determinant on the level of shift of the supply and demand,³⁹ though in the case of human trafficking (the goods), price does not matter but quantity.

The price elasticity of demand, an aspect of the law of supply and demand, determines “how much the quantity demanded changes when the price changes.”⁴⁰ The more elastic the demand of a good, the greater the change in demand in response to price changes occurs.⁴¹ When a price changes, such as when influenced by a shift in supply,

³⁴ Tristan Burnett et al., “Modern Slavery in Our Midst: A Human Rights Report on Ending Human Trafficking in Oregon,” *International Human Rights Clinic at Willamette University College of Law*, June 2010.

³⁵ “Supply and Demand,” *NetMBA*, last modified in 2010, <http://www.netmba.com/econ/micro/supply-demand/>.

³⁶ *Ibid.*

³⁷ *Ibid.*

³⁸ *Ibid.*

³⁹ *Ibid.*

⁴⁰ “Price Elasticity of Demand,” *NetMBA*, last modified in 2010, <http://www.netmba.com/econ/micro/demand/elasticity/price/>.

⁴¹ *Ibid.*

the price elasticity of the demand is influenced by a number of factors: “availability of substitutes,” “degree of necessity” of the good, “proportion of income” needed to purchase the good, length of time, permanency of price change, and “price points” (numerical value).⁴² In other words, if a small price change occurs, the influencing factors of demand will affect the change in demand (a greater change in demand indicates greater elasticity).⁴³

There is a section of the literature that addresses the economic factors of supply and demand and globalization on trafficking, implicating human trafficking victims as goods or products under an economic framework. Shelley identifies other reasons for the rise of human trafficking, among them, globalization and its effects on world demands. According to her, thanks to globalization, it is now easier to move people and goods throughout the world and organizations and people have benefitted from increased, more rapid communications.⁴⁴ She states, “Free markets, free trade, greater economic competition, and a decline in state intervention in the economy have been hallmarks of the globalizing process.”⁴⁵ Makarenko, whose positions and findings align with Shelley’s own, elaborates on the exploitation of the benefits of globalization, such as modernized communications, open borders, and transnational transportation networks, to facilitate human trafficking.⁴⁶ Todd Bensman, a Naval Postgraduate School Center for Homeland Defense and Security graduate, notes in his thesis about the international smuggling of people that the international black market industry has exploded in conjunction with the globalizing economy because of trade agreements, technological advancements,

⁴² Ibid.

⁴³ “Price Elasticity of Demand,” *Investopedia*, accessed July 14, 2016, <http://www.investopedia.com/terms/p/priceelasticity.asp>.

⁴⁴ Shelley, *A Global Perspective*, 37.

⁴⁵ Ibid., 37.

⁴⁶ Tamara Makarenko, “Organized Crime or Crimes Organized?,” in *Human Trafficking and Human Security*, ed. Anna Jonsson (New York: Routledge, 2009), 26.

communication improvements, transportation, and finance. This has caused a significant trailing of American strategy in response to black market industry.⁴⁷

Shelley further elaborates that globalization is not the sole reason for the growth of human trafficking. She mentions briefly that the end of the Cold War caused Eastern European revolutions, the end of Soviet socialism, collapse of the USSR, and greater political instability throughout the world.⁴⁸ In addition to political instability, regional conflicts and negative consequences of globalization contribute to the growth of trafficking. Shelley indicates that rural to urban migration, rising health costs, discrimination, global warming and natural disasters, and the impoverishment of peoples because of cost-saving efforts to compete in the global economy have all created situations ripe for exploitation of humans for trafficking.⁴⁹ Numerous other authors touch on individual aspects of Shelley's multitude of human trafficking growth reasons, though not to the extent she does and generally acknowledges these reasons as attributing to supply and demand of human trafficking.

Supply and demand of humans, whether in the form of labor or sex, greatly affects the growth of human trafficking as a crime. According to Shelley, human trafficking is growing at a rapid pace because the world has created an increase in supply and demand.⁵⁰ Affected by globalization and the aforementioned reasons for human trafficking's rise, supply comes from impoverished and war-torn regions or weakly regulated regions. There is an abundance of people in the world whom traffickers have the chance to manipulate and traffic. Therefore, it is difficult to affect the supply chain. Shelley asserts that demand is the primary fuel for the growth of human trafficking due to consumers' willingness to use and buy products produced by trafficked victims in order to receive the benefits of a consumer society at a more affordable price.⁵¹ Additionally,

⁴⁷ Todd Bensman, "The Ultra-Marathoners of Human Smuggling: Defending Forward Against Dark Networks That Can Move Terrorists Across Land Borders" (master's thesis, Naval Postgraduate School, 2015), 15.

⁴⁸ Shelley, *A Global Perspective*, 38.

⁴⁹ *Ibid.*, 38–57.

⁵⁰ *Ibid.*, 2.

⁵¹ *Ibid.*, 39.

some literature discusses the desire for cheap labor or sex, regardless of the consequences of their actions on the victims and the human trafficking supply chain.

Various authors differ in their definition of supply and demand actors in human trafficking. Mahmoud and Trebesch define the “demand side of the human trafficking market [as] criminal agents recruiting for employers” or for trafficking abroad, and the supply side as “vulnerable individuals willing to work abroad.”⁵² This construct narrows the market to only the trafficking portion of the industry, not accounting for external demands of consumers in its evaluation. It also focuses on human trafficking as a labor market where the supply side, or vulnerable individuals, has some willingness to find better opportunities and thus ends up at risk for trafficking. In contrast, Siddharth Kara, Director of the Program on Human Trafficking and Modern Slavery at Harvard University’s Kennedy School of Business, discusses the supply side of human trafficking as drivers or forces that promote the supply side in the human trafficking industry. The supply of trafficked individuals, according to Kara, is influenced by numerous factors such as poverty, social instability, conflict, environmental disasters, corruption, and biases against women and minorities.⁵³ Kara also touches briefly on the demand side of the market, noting that there are two forces of demand for human trafficking: businesses seeking more profitability through lower labor costs and consumer demand for low-cost items.⁵⁴

In their article, Wheaton, Schauer, and Galli define the human trafficking market supply as the labor itself that is provided by trafficked individuals, both labor and sex. Similar to Mahmoud and Trebesch, they give the trafficked individuals agency in deciding whether to supply labor, whereas the demand side of the market, or source of labor demand, are employers.⁵⁵ Wheaton, Schauer, and Galli introduce the concept of

⁵² Toman Omar Mahmoud and Christoph Trebesch, “The Economics of Human Trafficking and Labour Migration: Micro-evidence from Eastern Europe,” *Journal of Comparative Economics* 38, no. 2 (2010): 174.

⁵³ Siddharth Kara, “Supply and Demand: Human Trafficking in the Global Economy,” *Harvard International Review* (2011): 69–70.

⁵⁴ *Ibid.*, 71.

⁵⁵ Wheaton, Schauer, and Galli, “Economics of Human Trafficking,” 116–117.

“product differentiation” to human trafficking, which are the differences in uses of trafficked persons or desired traits, such as skin color or age.⁵⁶ In this view, human traffickers are intermediaries, or suppliers, who work to link employers (demand) with “workers who have the desired characteristics” (supply).⁵⁷ The authors focus primarily on businesses and supply and demand in labor trafficking, but they touch briefly on demand from consumers for both cheap products and sex services. They address influencing the market through increasing operating and risk costs to the suppliers and traffickers to affect the supply side of the market, such as punishment of traffickers. Additionally, they suggest market influence can occur through social welfare improvements such as job opportunities for the “supply” (i.e., victims). Furthermore, they recommend decreasing benefits to putative employers as a means of reducing demand and providing education to consumers in order to spur social support of trafficking-free businesses.⁵⁸ In short, if the risk or cost of engaging in human trafficking can outweigh the benefits to both traffickers and employers, there will be a decrease in the activity.

In her journal article, Jessica Schaffner, a litigation associate in a Houston law firm, discusses the field of law and economics and criminal deterrent theories and their application to human trafficking. Her article is a comprehensive compilation of research, economic model information, and analysis. She notes that Gary Becker’s 1968 article, *Crime and Punishment: An Economic Approach*, was pivotal in establishing an economic theory for deterring criminal behavior, which stemmed from 1961 articles by Ronald Coase and Judge Guido Calabresi that applied economic analysis to law, establishing the expansion of law and economics.⁵⁹ Schaffner summarizes the application of economic theory in deterring criminal behavior, explaining the use of the microeconomic price theory to “predict and explain legal outcomes and efficiency.”⁶⁰ Price theory is an economic theory that explains supply and demand and their effect on pricing and

⁵⁶ Ibid., 119.

⁵⁷ Ibid., 123.

⁵⁸ Ibid., 131.

⁵⁹ Schaffner, “Optimal Deterrence.”

⁶⁰ Ibid., 1530–1531.

attempting to achieve an equilibrium, or optimal price, through the market, which establishes price discovery.⁶¹ Schaffner indicates that strict laws and severe sanctions will cause people to react in a similar manner to how they react to higher prices, reducing consumption or activity, whereas a lower price will cause an increase in activity.⁶²

The author notes, however, that the field of law and economics has its limitations. Namely that economic models simplify reality and assume certain behaviors of humans are rational in an effort to maximize utility (rational choice theory).⁶³ Schaffner assesses the weakness in rational choice theory and its application in the field of law and economics, noting that it provides a “straightforward behavioral pattern” to apply a variety of laws, but that the theory misses the many nuances of how people make decisions.⁶⁴

Schaffner indicates that applying law and economics to human trafficking is not a new concept, citing Kara, Wheaton, Schauer, and Galli as scholars who have applied economic supply and demand models to human trafficking. She affirms that human trafficking is a prime example of economic model application to crime as it is a market of the buying and selling of people.⁶⁵ Schaffner criticizes the aforementioned authors noting that their studies focus on supply and demand causing movement of people across borders, looking at the market as a whole.⁶⁶ She implies that the market of human trafficking is more than just the movement and exploitation of people for trafficking, but acknowledges that these authors’ works have contributed to human trafficking literature and efforts in combating the crime.

Schaffner continues to apply the economic model to human trafficking through analyzing cost-benefit analysis as it applies to trafficking. As she puts it, a cost-benefit

⁶¹ Thomas Weber, “Price Theory in Economics,” in *The Oxford Handbook of Pricing Management*, Oxford University Press, <http://econspace.net/papers/Price-Theory-OUP-Preprint.pdf>.

⁶² Schaffner, “Optimal Deterrence,” 1531.

⁶³ Ibid., 1531.

⁶⁴ Ibid., 1531.

⁶⁵ Ibid., 1532.

⁶⁶ Ibid., 1532.

analysis reveals the efficiency of societal habits or new regulations on a macro level and helps to clarify why people make certain choices over others on an individual level.⁶⁷ She acknowledges there are a number of actors in the human trafficking market that affect the economy of the industry and conduct their own cost-benefit analysis in deciding whether to engage in trafficking. Traffickers, or intermediaries as she puts it, evaluate the net profit margins, facing “nearly constant demand for their product.”⁶⁸ Employers benefit from human trafficking through increased profits as a result of reduced labor costs or a reduction in household expenses. These high profit margins and reduction in normal operating costs give a significant benefit compared to perceived costs.⁶⁹ Schaffner indicates the costs to traffickers and employers, both monetary and legal, are unreasonably low.⁷⁰

As Schaffner breaks down Becker’s economic approach to criminal deterrence, she compares it to rational choice theory that gives opportunities for potential offenders to make a decision to refrain from crime to avoid punishment with the loss of benefits gained from the crime or to complete the criminal activity and face consequences and punishment.⁷¹ She elaborates on Becker’s model, stating that there is the additional level of depth in criminal cost-benefit analysis of evaluating the alleged probability of punishment factors and the severity of punishment before a deter or commit decision is made.⁷² Schaffner analyzes Becker’s model, discussing its shortcomings in assuming “everyone is equally rational and all people weigh costs and benefits in an identical fashion.”⁷³ For example, she indicates that youth tend to devalue risk, discount punishment, and calculate consequences differently from adults; thus, their “cost” is much lower in their minds in their cost-benefit analysis.⁷⁴ Schaffner looks at this analysis

⁶⁷ Ibid., 1533.

⁶⁸ Ibid., 1535.

⁶⁹ Ibid., 1535–1536.

⁷⁰ Ibid., 1536.

⁷¹ Ibid., 1542.

⁷² Ibid., 1542.

⁷³ Ibid., 1543–1544.

⁷⁴ Ibid., 1544.

and studies that indicate the probability of punishment is more effective in deterring crime than the severity of punishment and provides recommendations for application. First, she indicates that these findings should influence the creation and budgeting of anti-trafficking laws.⁷⁵ Second, emphasis should be placed on increasing the believed chance of punishment.⁷⁶

Lastly, through her analysis of law and economic supply and demand criminal deterrence models, Schaffner elaborates on four main recommendations provided by Kevin Bales, President of Free the Slaves. First, Bales and Schaffner recommend to “[i]mprove the institutional capacity of law enforcement personnel at the local, state, and federal level ... [through] ... training and coordination.”⁷⁷ Essentially, an increase in resources for law enforcement would affect the cost-benefit analysis of potential traffickers.⁷⁸ Second, create a wide-reaching awareness-raising campaign on human trafficking in the United States, which would influence social norms and impact response from both society and human traffickers as more people comprehend and rebuff human trafficking, causing an increase in the cost of human trafficking.⁷⁹ Third, provide improved legal protections and monitoring of the workforce in high-risk industries, such as agriculture, domestic labor, and food service, which would increase the chance of punishments and exposure.⁸⁰ Finally, fix facets of migration policy that encourage employers to use trafficked labor through incentives in order to increase monitoring and probability of exposure of illegal activities to deter criminal behavior.⁸¹

⁷⁵ Ibid., 1545.

⁷⁶ Ibid., 1546.

⁷⁷ Kevin Bales, Laurel Fletcher, and Eric Stover, “Hidden Slaves: Forced Labor in the United States,” *Berkeley Journal of International Law* 23, no. 1 (2005): 106, as quoted in Schaffner, “Optimal Deterrence,” 1547.

⁷⁸ Ibid.

⁷⁹ Ibid.

⁸⁰ Ibid.

⁸¹ Ibid.

3. Summary

The current efforts of legislation in the United States, and Oregon particularly, lack successful anti-human trafficking efforts. As the convergence of crime and terrorism continues to pose a threat, human trafficking is quickly becoming a looming issue for national security and law enforcement response. Therefore, comprehensive and effective policies are needed to curtail the growing crime without philanthropic, emotional principles driving policy-making decisions. Evaluating economics-based model recommendations against legislation at the local level can provide valuable insight into reasonable and feasible policies in the fight against human trafficking.

D. RESEARCH DESIGN

The research design for this thesis consists of the application of theoretical models and policy analysis. The application of an economic supply and demand model on policies at a state level stems from recommendations made throughout the literature regarding human trafficking and economic models. The design looks at implementation requirements and evaluates the feasibility of applying economic models for criminal deterrence to policies regarding human trafficking. The research design evaluates whether application of economic models at the state level through policy analysis is effective in countering human trafficking through evaluation of current policies and comparison of case studies. It explores the cause and effect suggested by an economic model application and cost-benefit analysis and analyzes claims of causality in policy analysis.

1. Methodology

Policy Analysis—Qualitative Cost-Benefit Analysis. An evaluation of current policies for Oregon assesses strengths and weaknesses and identifies gaps in the current policy model under the framework of an economic supply and demand model. This thesis applies economic model theories to identify if current state policies are effective enough in combating human trafficking and whether applying an economic supply and demand model strengthens efforts to reduce the problem. Economic model theory variables are applied to impact supply and demand of human trafficking at a state level based on

recommendations and comparisons in various literatures. The qualitative cost-benefit analysis evaluates the current policies to answer the research question: How would applying an economic supply and demand model to human trafficking at the state level reduce its prevalence? The criteria for evaluation of current policies and providing recommendations are as follows:

- **Prosecution**—Level of effectiveness and depth to which prosecution of traffickers and buyers is implemented.
- **Protection**—Services provided to and efforts to reduce criminalization and marginalization of victims.
- **Prevention**—Effort and initiatives to increase awareness of human trafficking and reduce occurrences.
- **Cost (Risk)-Benefit Analysis**—Impact of the current costs and risks versus benefit to affect actors within the supply and demand curves.

2. Instrumentation

The methodology consists of qualitative analysis of human trafficking literature, in particular economic supply and demand applications to human trafficking, and applies it to an evaluation of the current policies at the state level, followed by a series of recommendations under the same framework. Policy analysis reviews data provided through current literature and Oregon-based information. Local-level trends in Portland and available information throughout Oregon are assessed using open source and available information. Comparative analysis of other cities, regions, and countries are considered when reviewing policy recommendations. Instrumentation is a modified process of policy analysis as listed below:

- Define the problem—establish the background.
- Define and evaluate current policies.
- Evaluate findings and identify gaps.
- Redefine and establish the problem under economic supply and demand model.
- Construct alternate solutions.

- Evaluate economic model impact.
- Explain recommendations.

3. Limits

The scope of this research is limited by the available case and research data within Oregon. Research into human trafficking is difficult as victims belong to a “hidden population,”⁸² therefore, analysis of effectiveness of policies must utilize case studies and comparisons of similar policies to provide an adequate examination. Due to time and scope restraints, evaluation of policies and recommendations are limited within the framework of supply and demand.

E. OBJECTIVE AND OVERVIEW OF CHAPTERS

The goal of this thesis was to determine if applying an economic supply and demand model theory to state level policies would truly affect the prevalence of human trafficking and the likelihood of success through policy analysis. Throughout this thesis, the applied economic theory of supply and demand defines the actors of human trafficking: victims will be interchangeably referred to as goods and services or commodities; traffickers as suppliers; and buyers, clients, and users as demand or demanders.

Chapter II of this thesis provides a more extensive background on human trafficking and discusses the issue within a variety of contexts. It provides statistics, causes, and case studies; discusses the problem within the context of international criminal activity and its links to terrorism; examines human trafficking as a human rights issue and as a form of illegal migration; and discusses victim care and gender perspectives surrounding human trafficking.

Chapter III evaluates federal and Oregon human trafficking-related policies and legislative efforts. It provides background into the different legislative policies and efforts established by the United States and Oregon, as well as identifies the gaps in the current

⁸² Andrea Di Nicola, “Researching into Human Trafficking: Issues and Problems,” in *Human Trafficking*, ed. Maggy Lee (Portland: Willan Publishing, 2007), 53.

policies. It also evaluates these current gaps within the framework of cost-benefit analysis under an economic model for actors operating under the umbrella of current policies.

Chapter IV provides an assessment and background into Oregon's current human trafficking market and the supply and demand drivers within its borders. It applies the human trafficking market to Oregon and evaluates how the different factors discussed throughout this thesis are evident in Oregon. It evaluates the human trafficking market and how it operates within Oregon.

Chapter V provides recommendations for policy changes under this economic framework, categorizing the recommendations into a three-pronged approach: reducing costs to victims, increasing costs to suppliers, and increasing costs to buyers. It also identifies other areas of research needed.

II. HUMAN TRAFFICKING BACKGROUND

A man dies when he refuses to stand up for that which is right. A man dies when he refuses to stand up for justice. A man dies when he refuses to take a stand for that which is true.

— Martin Luther King, Jr.

The literature on human trafficking is expansive and provides countless perspectives on the issue throughout the world and from different focal points. This section analyzes the information gathered for this thesis and establishes a background on human trafficking within the context of certain categories: statistics, causes, and case studies; international criminal activity and terrorism; human rights issues and illegal migration; and victim care and gender perspectives. These categories incorporate many nuanced and complex topics of human trafficking and provide different evaluations of the crime.

A. STATISTICS, CAUSES, AND CASE STUDIES

There is a plethora of reasons or causes of human trafficking and generally accepted data on human trafficking. The International Labour Organization, an organization founded in 1919 and a specialized agency of the United Nations aimed at promoting rights at work, social protection, and decent employment opportunities, is one of the most commonly referenced statistic providers on human trafficking.⁸³ This organization estimates 21 million victims of human trafficking worldwide.⁸⁴ Louise Shelley provides a more conservative estimate of perhaps 12 million victims worldwide.⁸⁵ Though the total number of victims remains obscure, it is widely accepted that human trafficking crime is multi-billion dollar industry.⁸⁶

⁸³ “About the ILO,” *International Labour Organization*, accessed March 11, 2016, <http://www.ilo.org/global/about-the-ilo/lang--en/index.htm>.

⁸⁴ “Forced Labour, Human Trafficking and Slavery” *International Labour Organization*.

⁸⁵ Shelley, *A Global Perspective*, 300.

⁸⁶ “ILO Says Forced Labour,” *International Labour Organization*.

Human trafficking data are questionable and problematic and consistent, reliable information is difficult to find due in part to a lack of accurate research and emotionally driven human rights activism. Because of a reliance on sloppy research, circumstantial evidence, misuse of questionable statistics, and moral-based ideals, some have contested its human trafficking magnitude⁸⁷ and scope.⁸⁸ Due to weak or fractional information and inconsistent research on human trafficking, many policies are created due to emotional, political, or religious biases instead of substantiated evidence.⁸⁹

Human trafficking estimates are inaccurate because of discrepancies between government and non-government definitions and the concealed nature of the crime.⁹⁰ Although any age and gender can be trafficked, academia, the political sector, and media tend to focus on the sexual exploitation of women and girls as human trafficking and, as a result, less information is available for human trafficking of men and labor trafficking.⁹¹ This selection bias could stem partially from the fact that most trafficking victims who interact with the judicial system are typically sexually exploited and trafficked females, which gives the perception that labor trafficking is non-existent or less common.⁹² The selection pool of trafficking victims appears to skew the data and prohibit an accurate picture of human trafficking statistics overall.

Shoddy information on human trafficking is due in large part to the difficulty in conducting research on the topic. Traffickers, their victims, and to a large extent their clients, belong to what are described as “hidden populations”—that is, members who are not easily identifiable or found. Hidden populations, thus, make it difficult for researchers to access and build a sample for research purposes and the current information likely only

⁸⁷ Lee, “Introduction,” 2.

⁸⁸ Jyoti Sanghera, “Unpacking the Trafficking Discourse,” in *Trafficking and Prostitution Reconsidered: New Perspectives on Migration, Sex Work, and Human Rights* (Boulder: Paradigm Publishers, 2005), 4.

⁸⁹ Di Nicola, “Researching into Human Trafficking,” 49.

⁹⁰ Wheaton, Schauer, and Galli, “Economics of Human Trafficking,” 118.

⁹¹ Di Nicola, “Researching into Human Trafficking,” 51–52.

⁹² *Ibid.*, 59.

scratches the surface of the population.⁹³ Members of these “hidden populations” are likely unwilling to cooperate with research or may provide misleading information to protect themselves because their world involves stigmatized and illegal acts.⁹⁴ Part of the problem could also lie in the limited action or response by police forces to these hidden populations or even lack of awareness of the problem. There are also the cases of corrupt officials, facilitators, and businesses that protect and conceal these “hidden populations.” Regardless of these factors, researching human trafficking can be risky, and researchers are often in danger due to traffickers who turn to violence to defend their businesses.⁹⁵ These risks are even more problematic when attempting to obtain data and information dealing with terrorist or insurgent group sponsored trafficking. The risks regarding the safety of researchers reduces the effectiveness of research and provides possibly more hasty data results or potential biases.

Accurate research on human trafficking suffers because of the fragmented views of scholars, researchers, and authors. For example, “criminologists see trafficking as an issue of crime and law enforcement, migration scholars see it as a corrupted form of labor migration, human rights scholars see it as a violation of individual rights, and feminists tend to see it as a gender issue.”⁹⁶ Much of the empirical data on trafficking is limited as it relies on law enforcement and service providers to recognize and identify trafficking victims and cases, as well as limited coordination of data collection across countries and among these hidden populations.⁹⁷

The reasons and causes of trafficking are thoroughly discussed and dissected, evaluating the issue from a global or national perspective, a socio-economic standpoint, or gender issue. Traffickers, for example, can recruit victims under the guise of an employment opportunity, often in another city or country, and will exploit the victim’s weakness by claiming an excessive debt owed by the victim. Travel costs, document

⁹³ Ibid., 53.

⁹⁴ Ibid.

⁹⁵ Ibid.

⁹⁶ Stephanie A. Limoncelli, “Human Trafficking: Globalization, Exploitation, and Transnational Sociology,” *Sociology Compass* 3, no. 1 (2009): 72.

⁹⁷ Ibid., 74.

procurement, or recruitment fees are all options of debt imposed on the victim and, by removing a victim's legal status, the trafficker exploits their vulnerability and usually withholds pay until their "debt" is paid or their contract is completed, which can take years, if at all.⁹⁸ Victims are frequently drawn to these employment opportunities by recruiters, being promised high-paying jobs, better working conditions, good benefits, or the chance to live a better life and provide for their family. Once the true nature of the job is discovered, victims will find themselves unable to leave or get help, either through debt bondage or forcibly being held against their will.⁹⁹

One of the reasons this tactic is so successful is that human trafficking has multiplied due to globalization, among other factors, and that "trafficking is often caused by deep-seated poverty," where governments fail to meet the human security needs of its citizens.¹⁰⁰ Traffickers then exploit vulnerable populations.¹⁰¹ Instable political and regional conflicts contribute to vulnerable populations and, thus, trafficking.¹⁰² The low level of risk involved with human trafficking benefit traffickers as lower prosecution and indictment rates affect traffickers.¹⁰³

B. INTERNATIONAL CRIMINAL ACTIVITY AND TERRORISM

Human trafficking has notably been tied to criminal activity, organized crime, and even terrorism worldwide. Attempts to analyze and infiltrate the criminal aspects of human trafficking, discussing its illicit activities, its impact on transnational crime, and its links to terrorism under the umbrella of national security has been of interest by many authors in recent years. The countries that lack protections for trafficking victims allow these violations of human rights to degrade the stability of democratic societies, which

⁹⁸ Department of State, *Trafficking in Persons Report*, 8.

⁹⁹ *Ibid.*, 15.

¹⁰⁰ Louise Shelley, "International Trafficking: An Important Component of Transnational Crime," in *Human Security, Transnational Crime and Human Trafficking: Asian and Western Perspectives*, eds. Shirō Ōkubo and Louise Shelley (New York: Routledge, 2011), 138.

¹⁰¹ *Ibid.*

¹⁰² *Ibid.*, 139.

¹⁰³ Louise Shelley, "Human Trafficking as a Form of Transnational Crime," in *Human Trafficking*, ed. Maggy Lee (Portland: Willan Publishing, 2007), 132.

weakens democracy, law, order, and accountability of countries.¹⁰⁴ Even further, human trafficking can help spread conflicts through its profits to unstable regions, decrease stability through the introduction of trafficked illegal migrants into a country, or introduce and move terrorists into countries.¹⁰⁵ Ultimately these factors contribute to failing national security efforts.

An increasing number of organizations have involved themselves in human trafficking due to significantly lower risk and costs associated with conducting the crime in comparison to the drug trade along with its increased profitability.¹⁰⁶ There are lower sentences for human trafficking crimes and a lower risk of being caught since it is more difficult to prove a crime involving humans, unlike drugs, and due to the fact that humans can be sold multiple times for profit, creating a value chain, whereas drugs are one time use.¹⁰⁷ As a result, international human trafficking has exploded.

Transnational criminal organizations have been identified as a threat to national security and the use of human trafficking in their activities and funding only contributes to the growth of their burgeoning organizations, especially when they have been increasingly found to have ties to terrorist groups. Transnational criminal organizations are defined as organized criminal groups who commit, plan, or are involved in illicit activities that have effects on more than one state.¹⁰⁸ There are now connections between previously unconnected transnational criminal organizations and terrorist groups. For example, the Quds Force, an Iranian Revolutionary Guard Corps unit that conducts terrorist operations and supports groups like Hezbollah and the Taliban, allegedly attempted to use members of the Mexican crime organization, Los Zetas, to assassinate a

¹⁰⁴ Shelly, *A Global Perspective*, 66.

¹⁰⁵ *Ibid.*

¹⁰⁶ Svante Cornell, "The Interaction of Drug Smuggling, Human Trafficking, and Terrorism," in *Human Trafficking and Human Security*, ed. Anna Jonsson (New York: Routledge, 2009), 58.

¹⁰⁷ *Ibid.*, 58.

¹⁰⁸ "United Nations Convention Against Transnational Organized Crime and the Protocols Thereto," *United Nations*, accessed November 2, 2015, https://www.unodc.org/documents/middleeastandnorthafrica/organised-crime/UNITED_NATIONS_CONVENTION_AGAINST_TRANSNATIONAL_ORGANIZED_CRIME_AND_THE_PROTOCOLS_THERETO.pdf.

Saudi ambassador.¹⁰⁹ More than 20 foreign terrorist organizations now have links to such criminal activity as drug trafficking, kidnapping for ransom, extortion, and arms trading. The nexus between terrorism and these crimes is a growing concern.¹¹⁰

Organized crime is beginning to operate more fluidly within their networks rather than using the more traditional rigid, formal hierarchical structures used in the past. This more fluid organizational scheme allows criminals flexibility to conduct illicit activities over a longer period of time.¹¹¹ The low threshold of entry, fluidity of operations, and characteristics of trafficking crimes are arguably inviting to terrorist organizations in incorporating illicit activity and operations as a funding source. The fluidity of organized crime and nexus to terrorism is demonstrated in the criminal organization Mara Salvatrucha, or MS-13, which has been involved in the drug trade and human smuggling, meeting with and attracting the interest of Al Qaeda and radical Islamic groups hoping to gain access to the United States.¹¹² The involvement of terrorist or insurgent groups with drug trafficking has been known for some time.¹¹³

The use of prostitution as a funding source is also a significant shift for many criminal organizations. Though there are some engaged in prostitution who do so willingly, there are large, involuntary populations forced into the prostitution industry, making it part of the human trafficking phenomenon. Counter-terrorism efforts have made other financing efforts unattractive and, thus, impacted the funds and resources available to terrorists today.¹¹⁴ Prostitution, thus, is an attractive means of funding terrorism because it is a crime that generates large revenues for little risk.

¹⁰⁹ Cheryl Pellerin, "Terrorism-Crime Nexus a Growing Concern, DOD Official Says," *Defense.gov*, last modified June 1, 2012, <http://www.defense.gov/news/newsarticle.aspx?id=116588>.

¹¹⁰ Department of State, "Chapter 6. Foreign Terrorist Organizations," last modified May 30, 2013, <http://www.state.gov/j/ct/rls/crt/2012/209989.htm>.

¹¹¹ "The Globalization of Crime: A Transnational Organized Crime Threat Assessment," *UNODC*, last modified in 2010, https://www.unodc.org/documents/data-and-analysis/tocta/TOCTA_Report_2010_low_res.pdf.

¹¹² Cornell, "Interaction of Drug Smuggling," 50.

¹¹³ *Ibid.*

¹¹⁴ Richard DiGiacomo, "Prostitution as a Possible Funding Mechanism for Terrorism" (master's thesis, Naval Postgraduate School, 2010), 13.

Current human trafficking data estimates that individuals or businesses are exploiting around 19 million victims, and another 2 million-plus are exploited by national or rebel groups.¹¹⁵ Terrorist and insurgent groups use human trafficking as a fund source in response to the freezing of assets and other counter-terrorism crackdowns on funding sources. The Liberation Tigers of Tamil Eelam (LTTE), a former Sri Lankan insurgency group, charged between \$18,000 and \$32,000 (US) per trafficked victim. Intelligence and security officials believed in 2000 that the LTTE was heavily reliant on human smuggling and trafficking as a funding source.¹¹⁶ Exacerbating the issue further, profits earned from trafficking prolong conflicts by providing funds to buy weapons and support insurgents in their campaigns, which in turn creates more vulnerable populations for trafficking exploitation.¹¹⁷

Additionally, as a subcomponent of the terrorism and national security aspect of human trafficking, there is evidence of human trafficking tactics as a method of warfare in armed conflicts. Terrorist and insurgent groups in Iraq and Syria, for example, use human trafficking as a tactic in their battles. The Islamic State (ISIS) devastates communities through fear and oppression and intimidates populations. ISIS has targeted women and children, especially minority groups like the Yezidi, abducting, raping, and abusing thousands, some as young as eight years old. These tactics destroy communities, as evidenced by the exodus of Syrian refugees in recent years. ISIS has engaged in human trafficking by selling, enslaving, distributing as spoils of war, forcing into servitude or marriage, and subjecting victims to physical and sexual abuse. They have established markets to sell women and children with price tags attached,¹¹⁸ especially the Yezidi.¹¹⁹ Terrorists and insurgents also exploit victims through use as child soldiers, such as the Lord's Resistance Army in Uganda that has abducted over 25,000 children

¹¹⁵ "Forced Labour, Human Trafficking and Slavery," *International Labour Organization*.

¹¹⁶ Cornell, "Interaction of Drug Smuggling," 52.

¹¹⁷ Louise Shelley, "Human Security and Human Trafficking," in *Human Trafficking and Human Security*, ed. Anna Jonsson (New York: Routledge, 2009), 11.

¹¹⁸ Department of State, *Trafficking in Persons Report*, 37.

¹¹⁹ Louise Shelley, "ISIS, Boko Haram, and the Growing Role of Human Trafficking in 21st Century Terrorism," *The Daily Beast*, last modified December 26, 2014, <http://www.thedailybeast.com/articles/2014/12/26/isis-boko-haram-and-the-growing-role-of-human-trafficking-in-21st-century-terrorism.html>.

over 20 years to use as child soldiers and sex slaves.¹²⁰ This destruction and abduction of child soldiers and slaves contributes to armed conflicts not as a means of funding, but as a means of support for the war efforts of these groups.

C. HUMAN RIGHTS ISSUES AND ILLEGAL MIGRATION

Human trafficking is a direct infringement on human security and the fundamental right of freedom.¹²¹ Human security is defined as the condition where individuals are safe from the dangers and threats to their lives, freedom, or dignity.¹²² It also ensures that people have security in their daily lives from threats, such as large population migrations, communicable diseases, and long-term oppression or deprivation.¹²³ Human trafficking lowers salaries, increases work-related injuries, and spreads the accessibility of sexual services.¹²⁴ Victims of human trafficking lack human security, as “their very existence is defined by repression and every known form of deprivation.”¹²⁵ The concept of human security is not isolated to any specific person, country, or region, but rather it is a global concept with a global goal. Due to this universal applicability, every country has the responsibility to work towards protecting human security for every person in its borders, regardless of citizenry.¹²⁶

Traffickers remove the fundamental right of freedom from their victims and violate human rights by submitting their victims to psychological and physical abuse.¹²⁷ There is no question that trafficking victims experience degradation from their captors and controllers. Human traffickers use a variety of methods to deprive victims of freedom and control their victims. Victims can be kidnapped, lured by promised lucrative jobs or relationships, or indebted to traffickers and that they are taken from every walk of life,

¹²⁰ Makarenko, “Organized Crime or Crimes Organized?,” 29.

¹²¹ Anna Jonsson, ed., *Human Trafficking and Human Security* (New York: Routledge, 2009), 4.

¹²² *Ibid.*, 4.

¹²³ *Ibid.*, 60.

¹²⁴ Shelley, *A Global Perspective*, 76.

¹²⁵ *Ibid.*, 60.

¹²⁶ Jonsson, *Human Security*, 3.

¹²⁷ Burnett et al., “Modern Slavery in Our Midst,” 2.

from war-torn countries to middle-class America, and represent all races, ethnicities, nationalities, genders, and age groups.¹²⁸ These methods of manipulation, exploitation, and coercion are pivotal to the dehumanization and invasion of human rights.

Violence, psychological abuse, threats to families, and confiscation of passports and documentation are all methods used by traffickers to control victims and force them to comply with the demands of the traffickers. Confiscation of documents leaves the victims without legal status or the protection of their country's embassy.¹²⁹ Traffickers can fraudulently recruit their victims through a variety of methods as well. Stirred by the potential for higher pay and employment, victims may willingly go with traffickers under the ruse of marriage, employment agencies, or middlemen in pursuit of a better life. Other times, family members may sell their children into trafficking.¹³⁰ These human trafficking tactics that Shelley remarks on are echoed throughout nearly all of the literature in different ways.

Yet human trafficking is not solely an issue of human rights and security, but also an issue within the context of illegal migration. The universal and fundamental rights to life and protection from torture and inhumane treatment are stripped from human trafficking victims. These rights should be awarded to victims when they are found illegally trafficked into a foreign country and treated as victims rather than treated as migration criminals. In the wake of the 9/11 terrorist attacks, there has been a greater emphasis placed on enhanced border security and a desire to deter illegal immigrants from entering the country. While there is an increase in the border security and anti-illegal immigration stance, the barriers to entry and corruption have led to an increase in illegal migration costs into the country.

However, even with larger financial and physical barriers to entry, illegal immigrants seek entrance into the United States and many turn to or continue to turn to smugglers to get them into the country, leaving them at increased risk for debt bondage

¹²⁸ "Human Trafficking," *Polaris*, accessed November 1, 2015, <http://www.polarisproject.org/human-trafficking>.

¹²⁹ Shelley, "Human Trafficking as a Form of Transnational Crime," 131.

¹³⁰ *Ibid.*, 128–129.

and trafficking.¹³¹ This tactic is not exclusive to the United States, however, and is particularly relevant today as news outlets report on the exploitation of Syrian refugees seeking to use smugglers to gain access to other countries,¹³² leaving the refugees vulnerable to become trafficked¹³³ or held under debt bondage.¹³⁴ Migrants leaving high-migration areas are more vulnerable to trafficking as these migrants are more willing to take risks.¹³⁵ This willingness of migrants to go to any lengths to move to other countries is likely to create a cycle of human trafficking and illegal immigration as “a rise in human smuggling and trafficking may increase nationalist sentiment and an anti-immigrant backlash.”¹³⁶

D. VICTIM CARE AND GENDER PERSPECTIVES

Another aspect of human trafficking research focuses on care of trafficking victims and discusses human trafficking as a gender issue. There is a lot of focus on sex trafficking and, in particular, women and girls as the major victims of human trafficking. Women and girls suffer from greater social and economic restrictions that affect their opportunities, leaving them vulnerable to trafficking. Women and girls are victimized by their own communities and are stigmatized for their trafficking past.¹³⁷ In countries, such as Albania, where traditional societies see prostitution, even if coerced, as a dishonor to the family, women and girls return to find their families threatening them with death for their work in the sex industry, leaving them vulnerable to re-victimization.¹³⁸ Part of the

¹³¹ Shelley, *A Global Perspective*, 232.

¹³² Charlotte McDonald-Gibson, “Refugee Crisis: Human Traffickers ‘Netted up to £4bn Last Year,’” *The Independent*, January 16, 2016, <http://www.independent.co.uk/news/world/europe/refugee-crisis-human-traffickers-netted-up-to-4bn-last-year-a6816861.html>.

¹³³ Lydia Willgress, “At Least 10,000 Refugee Children Have ‘Vanished into Sex Work and Slavery Trade’ after Arriving in Europe,” *Daily Mail*, January 31, 2016, <http://www.dailymail.co.uk/news/article-3425073/At-10-000-refugee-children-vanished-sex-work-slavery-trade-arriving-Europe.html>.

¹³⁴ Shehab Khan, “Syrian Refugee ‘Allows Smugglers to Rape His Wife as Payment for Trafficking Family to Europe,’” *The Independent*, January 6, 2016, <http://www.independent.co.uk/news/world/europe/syrian-refugee-husband-allows-smugglers-rape-wife-payment-trafficking-family-europe-a6798446.html>.

¹³⁵ Mahmoud and Trebesch, “The Economics of Human Trafficking,” 174.

¹³⁶ Shelley, *A Global Perspective*, 301.

¹³⁷ *Ibid.*, 62.

¹³⁸ *Ibid.*, 216.

reason that human trafficking occurs is the cultural low status of women, as well as poverty and violent conflicts.¹³⁹

Victims are often isolated from those able to provide care and support, often language barriers or ingrained fear of law enforcement prevents them from reaching out to police, and often knowledge of fellow victims' fruitless appeals to police prevent them from seeking help.¹⁴⁰ Trafficking of women and children is a result of violent conflicts that expose them to stressors, making them more susceptible to traffickers.¹⁴¹ Trafficking of women and children, which is primarily sex trafficking, receives more focus and is the most publicized form of trafficking, even though labor trafficking is much more commonplace.¹⁴² Trafficking should be defined as both sex and labor trafficking, as both are forms of forced labor. Expanding the definition of trafficking then opens up the understanding that men are also often victims of trafficking.¹⁴³

Implementation of long-term strategies, such as gender equality, increase in labor market participation of women, and addressing violence against women, should be considered.¹⁴⁴ The Protocol requires a "period of reflection [for victims] to recover from the trauma of trafficking and decide whether they will cooperate with law enforcement."¹⁴⁵ Governments should identify victims and provide victims' assistance, such as reparations, shelter, social services, and employment assistance opportunities.¹⁴⁶ Victim assistance and educational materials are provided in homeless, domestic violence, and youth shelters where victims are provided social services, immigration assistance, and health care.¹⁴⁷

¹³⁹ Ibid., 57–58.

¹⁴⁰ Ibid., 109–110.

¹⁴¹ Shelley, "Human Security and Human Trafficking," 17.

¹⁴² Shelley, *A Global Perspective*, 191.

¹⁴³ Johan Lindquist and Nicola Piper, "From HIV Prevention to Counter-trafficking: Discursive Shifts and Institutional Continuities in South-East Asia," in *Human Trafficking*, ed. Maggy Lee (Portland: Willan Publishing, 2007), 151–152.

¹⁴⁴ Limoncelli, "Globalization, Exploitation, and Transnational Sociology," 81.

¹⁴⁵ Shelley, *A Global Perspective*, 320.

¹⁴⁶ Ibid., 321.

¹⁴⁷ Burnett et al., "Modern Slavery in Our Midst," 119.

E. SUMMARY

There are many facets of human trafficking and this section discusses only a small fraction of the issue in order to provide background and context. The causes and growth of human trafficking, impact on human security and human rights, effects on national security, and links to transnational organized crime and terrorist organizations are just a number of subset of topics within human trafficking academia. Though much has been explored about human trafficking, the consensus is that human trafficking is a global issue and that numerous questions and gaps remain regarding the depth and scope of human trafficking and the issues it presents.

III. EFFORTS IN COMBATING HUMAN TRAFFICKING

My fellow citizens of the world, ask not what America will do for you,
but what together we can do for the freedom of man.

— John F. Kennedy

There are current efforts in place for combating human trafficking at the federal level and in Oregon. Many of these legislative efforts establish penalties for crimes involving human trafficking and generally focus on one of three categories: prosecution of traffickers, protection of trafficking victims, or the prevention of trafficking.¹⁴⁸ Although federal statutes establish minimum standards for combating human trafficking, states are able to pass anti-human trafficking legislation and initiatives in an effort to reduce its prevalence within that state. This chapter provides an overview of the federal policies established to combat human trafficking, Oregon’s statutes and policies, and the gaps that fail to thwart human trafficking. First, it will review the federal policies and discuss its initiatives under the three categories delineated above before discussing the gaps that must be addressed. Then, it will discuss the efforts in Oregon within the same framework.

The United States established the Human Trafficking Reporting System (HTRS), which was created to provide information on human trafficking cases reported by law enforcement, as well as establish a reporting and data collection system specifically for human trafficking.¹⁴⁹ In a 21-month operation assessing the cases brought on by federally funded human trafficking task forces across the country, the HTRS released its initial findings in January 2009 with data gathered from 38 (of 42) of the task forces surrounding 871 suspects and 1442 potential victims.¹⁵⁰ According to the findings, of the 1229 alleged incidents of human trafficking, 83 percent involved sex trafficking; 12

¹⁴⁸ Picarelli, “Trafficking in Persons in the Americas,” 25.

¹⁴⁹ Johnny E. McGaha and Amanda Evans, “Where Are the Victims? The Credibility Gap in Human Trafficking Research,” *Intercultural Human Rights Law Review*, 239th ser., no. 4 (2009), 7.

¹⁵⁰ *Ibid.*

percent, labor; and 5 percent, other (which can include cases such as human trafficking for the purpose of harvesting organs, etc.).¹⁵¹

More than 90 percent of alleged cases were female (40 percent of labor trafficking victims are women, and 99 percent of sex trafficking victims are women).¹⁵² Racially, 40 percent of cases were Hispanic, 23 percent were white, 21 percent were black, with the remaining being Asian or other; notably, Asians accounted for 10 percent of all sex trafficking victims, but 31 percent of labor trafficking victims.¹⁵³ In the confirmed labor trafficking cases, eight of 16 suspects (50 percent) were legal immigrants and two (13 percent) were illegal.¹⁵⁴ Of the 871 suspected traffickers, 56 percent were United States citizens, 21 percent were illegal immigrants, and 11 percent were legal immigrants, with United States citizens being the largest percentage of suspects involved in confirmed sex trafficking cases (64 percent).¹⁵⁵

What these data indicate is that cases of human trafficking in the United States are most commonly the sex trafficking of women, usually of Hispanic ethnicity, and is perpetrated more often by United States citizens. These statistics, however, could be indicative of a number of things: a bias for task force and law enforcement personnel to identify sex trafficking victims due to easier identification; bias for focusing on only women as victims; a higher selection pool of women sex workers causing a higher incidence rate of women sex trafficking victims; and a higher likelihood of law enforcement interaction with minorities, to name a few. Oregon, however, does not experience the benefit of having as established statistical data as the HTRS.

A. FEDERAL POLICIES

The United States has a number of legislative policies in place in an effort to combat human trafficking throughout the country. The United States implemented the

¹⁵¹ Ibid.

¹⁵² Ibid.

¹⁵³ Ibid.

¹⁵⁴ Ibid.

¹⁵⁵ Ibid.

Trafficking Victims Protection Act (TVPA) in 2000, followed by Reauthorizations of the TVPA in 2003, 2005, 2008, and 2013. The United States approach focuses on “strengthening legal codes and law enforcement tools while enhancing services available to victims.”¹⁵⁶ The 2000 TVPA established methods to prosecute traffickers and protect victims and survivors, attached severe penalties for the crime of trafficking, established an Office to Monitor and Combat Trafficking in Persons, created an Interagency Task Force to Monitor and Combat Trafficking, and provided T visas to allow victims of human trafficking and their Families temporary United States residency.¹⁵⁷ The 2003 Reauthorization added the ability for victims to sue their traffickers and protected victims and their families from deportation.¹⁵⁸ In 2005, the Reauthorization added a sheltering pilot program for minor victims of human trafficking as well as grants to aid state and local law enforcement in combating human trafficking; it also expanded efforts for combating sex tourism and human trafficking abroad.¹⁵⁹

The 2008 Reauthorization required the government to provide workers’ rights information to anyone applying for work or education-based visas and established systems to gather and report on human trafficking data.¹⁶⁰ The 2013 bill implemented and strengthened programs ensuring United States citizens avoid purchasing products made by human trafficking victims and established “emergency response provisions” to allow quicker response times to disaster zones by the State Department in order to curb the vulnerability of people who become more susceptible to human trafficking during crises.¹⁶¹ The TVPA, and its Reauthorizations, is enforced directly in the United States, and indirectly internationally as federal non-humanitarian aid (monies) may be withheld from countries that fail to meet the minimum standards established in the TVPA.¹⁶²

¹⁵⁶ Picarelli and Jonsson, *Fostering Imagination*, ii.

¹⁵⁷ “Current Federal Laws,” *Polaris*.

¹⁵⁸ *Ibid.*

¹⁵⁹ *Ibid.*

¹⁶⁰ *Ibid.*

¹⁶¹ *Ibid.*

¹⁶² Shelley, *A Global Perspective*, 280.

The national focus on legal codes demonstrates its criminalization of human trafficking, especially sex trafficking, and the commitment of resources to enacting and enforcing laws that criminalize trafficking.¹⁶³ The United States officially estimates between 14,500 and 17,500 trafficking victims annually enter the country, and that about 60 percent of those victims are sex trafficking victims,¹⁶⁴ though some estimates from other organizations show as high as 100,000 to 300,000.¹⁶⁵ Due to the extreme nature and complexity of the issues surrounding human trafficking, the United States has classified it as a national security threat.¹⁶⁶ The primary foundation of national anti-human trafficking policies are “known rhetorically as the ‘three Ps,’” balancing the pillars of prosecution, protection, and prevention.¹⁶⁷ Prosecution is the arm that focuses on law enforcement and judicial efforts in prosecuting traffickers and deals with legal code reform. Protection aims to provide services to victims such as shelter, clinical, legal, or employment services, or temporary citizenship and protection rights.¹⁶⁸ Lastly, prevention focuses on “exposing the hazards of trafficking as well as reducing the numbers vulnerable to recruitment into trafficking syndicates.”¹⁶⁹

1. Prosecution

Federal policies focused on law enforcement and prosecuting traffickers vary. Penalties for human trafficking under the TVPA and human trafficking-related legislation are considered strong. Persons convicted of involuntary servitude face at least 20 years in prison and may face life in prison if their case involves kidnapping, the sexual abuse of a minor, or death.¹⁷⁰ Out of 37 criminal cases identified in one study of TVPA-related

¹⁶³ Picarelli and Jonsson, *Fostering Imagination*, 5.

¹⁶⁴ *Ibid.*, 15.

¹⁶⁵ Picarelli, “Trafficking in Persons in the Americas,” 186.

¹⁶⁶ *Ibid.*, 46.

¹⁶⁷ *Ibid.*, 25.

¹⁶⁸ *Ibid.*, 25.

¹⁶⁹ *Ibid.*, 25.

¹⁷⁰ *Ibid.*, 32.

statutes, the average sentence was 18.25 years in prison.¹⁷¹ Traffickers who engage in the transaction of commercial sex with victims under 14 years of age may be sentenced to anywhere from 15 years to life in prison, whereas those who traffic victims 14 to 17 years old receive a fine and minimum 10 years in prison.¹⁷² Prosecution under the TVPA can be supplemented or strengthened under other similar legislative enforcements, such as the Protect Act that establishes penalties for child pornography and sexual exploitation, imposing a 15- to 30-year prison sentence for a first-time conviction of serious sexual abuse offenses against a child, such as using a child for child pornography or selling or buying children, and life imprisonment for a second offense.¹⁷³

Responsibility for enforcing the TVPA and protecting victims of human trafficking are split among various government agencies: the Departments of State, Justice, Labor, Homeland Security, Defense, and Health and Human Services.¹⁷⁴ The United States also has many law enforcement efforts concentrated both federally and at the state-level. The Civil Rights Unit of the Federal Bureau of Investigation (FBI) capitalizes on its history of anti-mafia investigations in combating sex trafficking.¹⁷⁵ In conjunction with the FBI, the Immigration and Customs Enforcement's (ICE) Office of Investigations conducts investigations into sex trafficking as it applies to both criminal aspects and potentially immigration violations by traffickers.¹⁷⁶ In Fiscal Years 2005–2006, the cases investigated by the FBI and ICE increased by 20 percent, with the FBI investigating 126 cases and arresting 140 traffickers and accomplices and ICE investigating 299 cases and making 184 arrests.¹⁷⁷ Out of the ICE cases, 214, or 71.5 percent, were related to sex trafficking and the remaining were labor trafficking.¹⁷⁸

¹⁷¹ Ibid., 33.

¹⁷² Burnett et al., “Modern Slavery in Our Midst,” 29.

¹⁷³ Ibid., 31.

¹⁷⁴ Shelley, *A Global Perspective*, 260.

¹⁷⁵ Ibid., 35.

¹⁷⁶ Ibid., 35.

¹⁷⁷ Ibid., 35.

¹⁷⁸ Ibid., 36.

2. Protection

Federal efforts afford some protection for human trafficking victims in order to provide a sense of security and safety through the prosecution of traffickers and to support their attempts at rebuilding their lives after rescue. The TVPA established special T-visas that provide trafficking victims who faced severe forms of trafficking with temporary status. The victims must agree to cooperate with law enforcement and only 5,000 are awarded annually.¹⁷⁹ These T-visas, offered through the Department of Homeland Security, provide temporary residency status for victims up to three years, or up to four under extenuating circumstances.¹⁸⁰ The T-visa are authorized for child trafficking victims under 15 even if the children do not agree to help law enforcement prosecute their traffickers.¹⁸¹

There also is a U-visa for human trafficking victims. The eligibility requirements are similar to the T-visa in that the victim must be in the process of assisting in the investigation or prosecution of a trafficker and have suffered “substantial physical or mental abuse.”¹⁸² T-visa applications are provided to victims of human trafficking specifically, whereas U-visa applications are provided to victims of criminal activity that cause suffering that amounts to “substantial mental or physical abuse,” of which human trafficking is included.¹⁸³

All human trafficking victims may also receive assistance in residential, medical, and psychological programs through NGOs, if available. Many locations throughout the United States have opened shelters to provide support to trafficking victims,¹⁸⁴ and grants are available for states and organizations to set up their own victim protection shelters and programs.

¹⁷⁹ Ibid., 260.

¹⁸⁰ Burnett et al., “Modern Slavery in Our Midst,” 25.

¹⁸¹ Ibid., 26.

¹⁸² Ibid., 26.

¹⁸³ “Victims of Human Trafficking & Other Crimes,” *U.S. Citizenship and Immigration Services*, last modified December 10, 2014, <https://www.uscis.gov/humanitarian/victims-human-trafficking-other-crimes>.

¹⁸⁴ Shelley, *A Global Perspective*, 260–261.

3. Prevention

A number of efforts are built into the federal policies aimed at preventing and reducing the prevalence of human trafficking. The TVPA understands that foreigners (immigrants and non-immigrants) are particularly vulnerable to human trafficking, including migrant workers, and so it requires that informative pamphlets are distributed and posted in different languages on federal websites, consular employment processing posts, education-based non-immigrant visas, provided to NGOs and other government agencies.¹⁸⁵ The TVPA also requires federal agencies to raise awareness in the general public and vulnerable populations about human trafficking.¹⁸⁶ Additionally, the Attorney General, under the TVPA, is allowed to fund law enforcement training with grants at the state and local level, allowing law enforcement to “identify, protect and assist victims; investigate trafficking crimes; increase awareness and utilization of existing statutes; and assist in the development of state and local legislation.”¹⁸⁷ Funding, understandably, is critical in the successful implementation of any program and that remains true especially in efforts to combat human trafficking. The TVPA also established the Interagency Task Force to Monitor and Combat Trafficking and the Office to Monitor and Combat Trafficking in Persons to aid in the efforts of preventing and combating human trafficking, raising awareness, and acquiring relevant and accurate data regarding human trafficking in the United States.¹⁸⁸

B. FEDERAL GAPS

Though the United States has made significant efforts in establishing policies aimed at fighting human trafficking and assisting its victims, there are shortcomings in its efforts, especially given the relationship between the federal government and the states. States can benefit from working to meet federal requirements, such as receiving federal grants and resources to aid their fight in human trafficking, especially when tied to one of

¹⁸⁵ Burnett et al., “Modern Slavery in Our Midst,” 2-4.

¹⁸⁶ *Ibid.*, 10-15.

¹⁸⁷ *Ibid.*, 19.

¹⁸⁸ *Ibid.*, 20.

the 42 regional anti-trafficking task forces throughout the nation.¹⁸⁹ State capabilities in prosecuting human traffickers and protecting victims are limited by state resources, however, even though human trafficking is considered a federal crime. Collaborative efforts between state and federal agencies are critical to addressing human trafficking as a nation, especially when funding is pivotal to implementing comprehensive and dependable anti-human trafficking efforts and prosecution efforts.

States, for example, are unable to issue temporary residency to foreign trafficked victims since, under the federal T-Visa program that grants victim protection rights and temporary residency, law enforcement must verify that victims are assisting in prosecution and investigation efforts; these verified applications must then be validated by the federal government, asserting that victims were subject to force, fraud, and coercion and were truly trafficked.¹⁹⁰ These requirements resulted in only 675 T-Visas being issued between 2001 and 2005 out of 5,000 possible annually; demonstrating both the difficulty of coordination between state and federal agencies, as well as the difficulty in proving a victim was subject to trafficking.¹⁹¹ As of 2008, less than 2,300 applications had been received by the US, only 1,308 of those were approved, 709 were denied or withdrawn, and 212 are pending.¹⁹² Some NGO's have indicated that law enforcement is reluctant to certify a T-visa application by a human trafficking victim, often waiting until prosecution has begun before certifying, lengthening the time before victims can receive immigration benefits and relief, which can dissuade a victim from further cooperating with law enforcement.¹⁹³ The T-visa process is lengthy and unpredictable and can take anywhere from two months to over a year in some cases to be approved or denied, according to an estimate by Catholic Charities.¹⁹⁴

¹⁸⁹ Ibid., 36.

¹⁹⁰ Ibid., 40.

¹⁹¹ Ibid., 40.

¹⁹² Ibid., 26.

¹⁹³ Bales, Fletcher, and Stover, "Hidden Slaves," 79.

¹⁹⁴ Burnett et al., "Modern Slavery in Our Midst," 71.

The TVPA fails in meeting the Protocol's international criterion for protection of minors. Internationally, under the Protocol, no one under 18 years of age can consent to a scenario that places him or her in a trafficking situation. Under federal law, consent is immaterial for minor victims of sex trafficking only, leaving labor trafficking victims vulnerable.¹⁹⁵ Since successful prosecutions are reliant on the cooperation and assistance of trafficking victims in the United States, support to the victim is critical to maintain that relationship. However, because of the psychological, emotional, and physical trauma the victim faced from the trafficker, often times victims are either unable or unwilling to aid in the prosecution efforts.¹⁹⁶

Under federal regulations, if the victim is a minor under 14, the TVPA child sex trafficking sentence for traffickers is up to 15 years in prison and a fine up to \$250,000, dropping to 10 years in prison if the victim is between 14 and 17 years old, with a life prison sentence if the trafficker has a previous conviction for a "federal offense against a minor."¹⁹⁷ This reduction in minimum imprisonment for an older minor compared to a younger one demonstrates an arbitrary value system created by the government placed on minors when, in reality, all minors should be treated equally in terms of protection and victim support.

With the federal government spending more than \$5 million in worldwide anti-human trafficking efforts, fiscal responsibility in combating the issue is vital in the increasingly budget-restrained environment the United States operates within.¹⁹⁸ This small budget in comparison to the \$3.36 trillion 2015 federal budget (0.00015 percent)¹⁹⁹ demonstrates an increasingly limited source that states must compete for, leaving little leeway for waste in terms of anti-human trafficking initiatives. Furthermore, over 40 human trafficking task forces were established across the United States using federal aid,

¹⁹⁵ Ibid., 32.

¹⁹⁶ Ibid., 34.

¹⁹⁷ 2015 Analysis and Recommendations Oregon, Shared Hope International, last modified in 2015, http://sharedhope.org/PICframe5/analysis/PIC_AR_2015_OR.pdf.

¹⁹⁸ McGaha and Evans, "Where Are the Victims?," 5.

¹⁹⁹ "2015 United States Budget," *Inside Gov*, last modified in 2016, <http://federal-budget.insidegov.com/l/118/2015>.

but only after January 2008 were these task forces required to send data to the Bureau of Justice Statistics.²⁰⁰ Prior to 2008, funds were granted without accurate information on victims or frequency of human trafficking and there were no conditions on requesting grant monies for funding recipients to assist human trafficking victims.²⁰¹ For establishing task forces, there were no requirements regarding meetings or specific members assigned to the task force and money could be used to purchase vehicles and pay for special deputy positions designated to address human trafficking, “even if there are no reported victims in the funded task force’s community.”²⁰² Requests and awarding of funds for human trafficking efforts can be heavily influenced by emotion, with funds drastically ebbing and flowing based on emotional responses to overinflated or underreported figures.²⁰³

For example, in three years leading up to 2008, Lee County, Florida, investigated 42 potential human trafficking cases referred to their Task Force.²⁰⁴ None of the 42 cases ended up being human trafficking cases, yet the county received an additional \$250,000 from the federal government for their Task Force, the county’s Catholic Charities received \$260,000 from the Office for Victims of Crime to provide comprehensive victim’s services for 2008–2010.²⁰⁵

What the Lee County case demonstrates is a significant gap in the ability to combat human trafficking and assess the depth of the problem across the country. Official estimates of the pervasiveness of human trafficking both nationally and internationally vary widely even from year to year. In 1999, the United States estimated victims of human trafficking to be approximately 50,000,²⁰⁶ but in 2003, the Department of State’s *Trafficking in Persons Report* estimated 18,000–20,000 victims in the United States

²⁰⁰ McGaha and Evans, “Where Are the Victims?,” 4.

²⁰¹ Ibid.

²⁰² Ibid.

²⁰³ Ibid., 5.

²⁰⁴ Ibid., 6.

²⁰⁵ Ibid.

²⁰⁶ Ibid., 2.

before dropping to 14,500–17,500 in 2004.²⁰⁷ Its global estimates were 700,000 between 2001 and 2002; 800,000–900,000 in 2003; and down to 600,000–800,000 in 2004.²⁰⁸ As stated earlier, reports indicate that 60% of trafficking within the United States is sex trafficking, however, this raises the question of whether this is an indication of confirmation bias leading to a higher rate of sex trafficking as it is more common for law enforcement to encounter and identify sex trafficking than it is for labor trafficking.

Anti-trafficking efforts in the United States are criticized for focusing on prosecution and pushing prevention and protection as secondary efforts.²⁰⁹ Prevention strategies are often focused on short-term efforts (e.g., public-awareness campaigns) and are limited in their ability to handle deeper-rooted issues as a long-term strategy, such as economic strengthening, gender equality, women’s rights and protection from violence.²¹⁰ Even with human trafficking laws and policy strategies in place, law enforcement and first responders often lack the training needed to recognize that human trafficking is occurring. This lack of training and awareness was shown by a study conducted by ICF International, a consulting services company. The study found that 68 percent of surveyed state and local prosecutors (out of 77 participants surveyed across 27 states) “did not consider human trafficking to be a problem in their jurisdictions,” compared to only 5 percent who considered it a “serious” problem.²¹¹

Across the country, only 10 percent of police stations have an established standard operating procedure (SOP) for handling human trafficking cases.²¹² As Bales, Fletcher, and Stover indicate, “One of the greatest challenges U.S. law enforcement faces is developing the skills to identify victims of trafficking and forced labor.”²¹³ This

²⁰⁷ Ibid., 5.

²⁰⁸ Ibid.

²⁰⁹ Limoncelli, “Globalization, Exploitation, and Transnational Sociology,” 81.

²¹⁰ Ibid.

²¹¹ Ibid.

²¹² Elsie Gonzalez, “The Nexus between Human Trafficking and Terrorism/Organized Crime: Combating Human Trafficking By Creating a Cooperative Law Enforcement System” (law school student scholarship, Seton Hall Law, 2013), 27.

²¹³ Bales, Fletcher, and Stover, “Hidden Slaves,” 74–75.

challenge could be due to a number of reasons, but notably that victims are hesitant to seek aid from police out of fear of reprisal by traffickers or due to previous negative experiences with law enforcement officials in their past.²¹⁴

These numerous shortfalls in the federal efforts affect human trafficking's economic market and the policies unknowingly facilitate the continued and growing supply and demand relationship of trafficking in the country. The ineffective and weak support for the victims, or human trafficking goods, creates a chasm between prosecutors due to the fact that in order to convict traffickers, federal prosecutors more often than not rely on victim testimony. However, without support services, such as T-visas, victim witnesses may be unwilling or unable to aid prosecutors or even return to their traffickers. The inconsistent punishments for trafficking minors, combined with a lack of awareness by law enforcement and the public, decrease the risks and potential costs to traffickers in doing human trafficking business, enabling realizable return on investments. As a result, traffickers will respond to the lack of disincentives to supply what the market demands of trafficked goods, increasing the prevalence of trafficking and subjecting more and more victims to trafficking. Additionally, the lack of major punishments for human trafficking consumers, in both sex and labor, decreases the risks (costs) for them, causing no negative change in demand.

C. OREGON POLICIES

States are increasingly implementing their own laws regarding human trafficking, victim protection, and investigation allowing them to prosecute human trafficking cases, although “investigation and prosecution of sex trafficking remains primarily a Federal responsibility.”²¹⁵ Oregon passed its anti-human trafficking law in 2007, on the heels of its neighbors, California and Washington.²¹⁶ Senate Bill (SB) 578 established the crimes

²¹⁴ Ibid., 74–75.

²¹⁵ Burnett et al., “Modern Slavery in Our Midst,” 32.

²¹⁶ Melody Finnemore, “Human Tender: Oregon Attorneys, Law Enforcement Forge Collaborative Strategy to Combat Growing Trade in Human Trafficking,” *Oregon State Bar*, News release, 2009, Oregon State Bar Bulletin, 2.

of subjecting others to involuntary servitude and trafficking in persons in both the primary and secondary degree.²¹⁷

Oregon law today allows victims to bring a civil case for damages against their trafficker, providing a six-year statute of limitations, as well as restitution and provides the victim a defense of duress if he or she was forced to engage in crime or complicit in the trafficker's crime while under their control.²¹⁸ Victims are identified in Oregon through a variety of means, including through law enforcement during sting operations, missing persons or runaway reports, and internet investigations.²¹⁹

In addition to state and local law enforcement, federal agencies like the FBI also identify trafficking cases in Oregon and coordinate with Oregon's United States Attorney for prosecution and aid in the investigation of cases.²²⁰ State and local law enforcement identify cases of trafficking and determine whether to prosecute under state law or turn the case over to Oregon's United States Attorney for federal prosecution.²²¹ If there is a federal connection to the case, for example, interstate trafficking between Washington and Oregon, the United States Attorney for Oregon handles the case. In intrastate cases, there is "an informal agreement between the United States Attorney for Oregon and the police in Oregon and Vancouver, Washington [just outside the border with Oregon]" that cases are handled by the local district attorney.²²²

1. Oregon Prosecution

Oregon has a number of statutes that relate to the crime of human trafficking, with most relating to sex trafficking and prostitution or sexual activity with a minor. Oregon's human trafficking statutes (Oregon Revised Statute § 163.266) establish that anyone who "knowingly recruits, entices, harbors, transports, provides or obtains by any means," or

²¹⁷ "Human Trafficking in Oregon," Task Force on Human Trafficking to The Senate Interim Judiciary Committee and the House Interim Judiciary Committee, October 30, 2008, 2.

²¹⁸ Burnett et al., "Modern Slavery in Our Midst," 37.

²¹⁹ *Ibid.*, 82.

²²⁰ *Ibid.*

²²¹ *Ibid.*, 84.

²²² *Ibid.*

attempts to do these are committing the crime of trafficking in persons.²²³ This crime is a Class A felony in Oregon, punishable by up to 20 years in prison and a possible fine of up to \$375,000.²²⁴ Oregon Revised Statutes (ORS) § 163.263-163.264 establish the crime of subjecting another person to involuntary servitude in the second and first degree, respectively. Subjecting another person to involuntary servitude is knowingly forcing or attempting to force someone to engage in services by abusing the law, destroying or confiscating immigration documents, threatening to collect unlawful debts, or causing fear in someone, among other methods. This crime in the second degree is considered a Class C felony, which is subject to up to five years in prison and a possible fine up to \$125,000, and the first degree is a Class B felony, subject to 10 years in prison and a possible fine up to \$250,000.²²⁵

Oregon also has a number of other statutes that relate to human trafficking and can be used in prosecution efforts conjunctively to prosecute human trafficking cases. ORS § 167.017(1) (Compelling prostitution), for example, prohibits any person from using force or intimidation against another person to participate in prostitution, or aid or cause another person to do so, and is subject to a Class B felony.²²⁶ Oregon also criminalizes the purchase of sexual services of a minor under ORS § 163.413 (Purchasing sex with a minor) by making it illegal for a person to pay or offer to pay to engage in sex or contact with a minor or a police officer posing as a minor. If there are no prior convictions at the time of an offense under this statute, and if the minor was at least 16 years old, then this crime is considered a Class C felony; otherwise it is considered a Class B felony.²²⁷ There is no defense available if the victim was under 16 years of age. The state enforces a mandatory minimum sentence for a first conviction of a \$10,000 fine, at least 30 days of incarceration, and completion of a johns' school program.²²⁸

²²³ 2015 Analysis and Recommendations Oregon, Shared Hope International.

²²⁴ Ibid.

²²⁵ Ibid.

²²⁶ Ibid.

²²⁷ Ibid.

²²⁸ Ibid.

Purchasing sex from a prostitute over the age of 18 is considered a Class A misdemeanor, which is punishable up to one year in prison and a fine of up to \$6,250.²²⁹

Portland has implemented diversion programs for first-time purchasers of sexual services and prostitution (i.e., johns) and there is an effort to reinvigorate these initiatives in Oregon.²³⁰ Offenders who plead guilty to a misdemeanor charge went through these “johns’ school” diversion programs and given community service, although prosecutors may add the education program to any sentence.²³¹ These programs provide education to offenders for them to receive a discharged sentence, but maintaining the conviction.

Johns’ schools have ranged in the past from one to three sessions, from two to fifteen hours, and costing from under \$100 to \$1,000.²³² The course material focus on health risks; acceptable behavior towards women and children; the culture of prostitution; impact on victims, community, and the johns; and relapse prevention.²³³ Offenders failing to complete the class served a five-day jail sentence. These schools are funded through private grants and enrollment fees and aim to reframe the perception of prostitution, and thus sex trafficking, as a victimless crime and reduce the recidivism rate of engaging in prostitution.²³⁴

2. Oregon Protection

Oregon’s labor laws and the Bureau of Labor and Industries (BOLI) provide protections for victims of human trafficking, most notably labor trafficking victims. BOLI is aimed at protecting the rights of workers within Oregon through employment rights, opportunities, and access to housing and public accommodations without

²²⁹ Ibid.

²³⁰ Burnett et al., “Modern Slavery in Our Midst,” 93.

²³¹ “Summary of Three John School Programs: Portland and Multnomah County, Oregon,” DEMANDforum.net, Chart, last modified in 2012, <http://www.demandforum.net/wp-content/uploads/2012/01/three-portland-john-schools-summary-table.pdf>.

²³² Ibid.

²³³ Ibid.

²³⁴ Burnett et al., “Modern Slavery in Our Midst,” 93.

discrimination.²³⁵ BOLI's authority extends to preventing work-related violations in labor trafficking industry sectors, the illicit sex industry, and industries and businesses that operate in high-risk human trafficking areas.²³⁶ Because of this proximity to human trafficking violations, BOLI is in an ideal position to coordinate with law enforcement and increase awareness among employers about the issue.²³⁷ In addition to protecting workers' rights and enforcing employment protections, BOLI influences the prevention of human trafficking, as employers and businesses are less likely to hire or use human trafficking victims under the belief that law enforcement and BOLI will pursue violators.²³⁸

Victims of sex trafficking may assert duress as a defense under Oregon statute. ORS § 163.269 (Victim assertion of defense of duress) enables victims arrested for prostitution to raise the defense that force or the threat of force compelled the victim to engage in prostitution, providing them a defense against criminal charges for prostitution.²³⁹ Additionally, to further help protect victims and prevent future victims of human trafficking, convicted traffickers are required to register as sex offenders under ORS § 181.805-181.814 (Registration).²⁴⁰ Victims are also able to recover financial losses and economic damages from traffickers through asset forfeiture. Asset forfeiture is authorized against traffickers and those who aid or assist in committing domestic minor sex trafficking under ORS § 131.597, if the seizing agency is the state, in order to pay costs and reparations to the victim.²⁴¹

Lastly, some organizations provide protection and shelter for victims of human trafficking. The Sexual Assault Resource Center, for example, in addition to providing aid to victims of sexual assault, have case managers trained to identify sex trafficking

²³⁵ Ibid., 39.

²³⁶ Ibid.

²³⁷ Ibid., 43.

²³⁸ Ibid., 44.

²³⁹ 2015 Analysis and Recommendations Oregon, Shared Hope International.

²⁴⁰ Ibid.

²⁴¹ Ibid.

victims and provide a secure facility for victims, providing basic necessities, like food and hygiene products. The victims are free to leave as they desire, but the hope is that victims feel safe enough to speak with a case manager and that they can build trust with the victims to try to get them to cooperate in leaving and potentially prosecuting their traffickers.²⁴² Additionally, the victim assistance programs in Oregon continue to grow as service providers expand their assistance by opening up their resources typically provided to one group (i.e., domestic violence victims and rape victims) to trafficking victims as well.²⁴³ The Catholic Relief Services' Outreach and Support to Social Immigrant Populations Program located in Portland is an organization that offers a number of services, including protection and shelter from traffickers, T-visa certification assistance, food, medical services, legal representation and assistance in immigration proceedings, and job assistance.²⁴⁴

3. Oregon Prevention

In 2010, Oregon passed House Bill 3623 in an effort to increase public awareness by authorizing the Oregon Liquor Control Commission to provide establishments that sell or serve alcohol informational stickers on human trafficking that include the National Trafficking Hotline number, description of human trafficking, and a call to arms for the public to report to the hotline if they encounter potential victims.²⁴⁵ Oregon also established training on human trafficking for law enforcement through ORS § 181.649 (Training in human trafficking), authorizing the Board on Public Safety Standards and Training to require that all police officers are trained in recognizing, investigating, and reporting human trafficking cases (both labor and sex) at “any advanced training program operated or authorized by the Department of Public Safety Standards and Training.”²⁴⁶

There are a number of service providers that offer focused training on trafficking, such as Catholic Charities and the Salvation Army, to help increase awareness in both the

²⁴² Burnett et al., “Modern Slavery in Our Midst,” 60.

²⁴³ Ibid., 78.

²⁴⁴ “Human Trafficking in Oregon,” Task Force on Human Trafficking, 6.

²⁴⁵ Burnett et al., “Modern Slavery in Our Midst,” 38.

²⁴⁶ 2015 Analysis and Recommendations Oregon, Shared Hope International.

public and law enforcement.²⁴⁷ Arguably the largest agency leading the charge against human trafficking in Oregon, the Oregon Human Trafficking Task Force (OHTTF) engages in multiple aspects of anti-human trafficking in Oregon, working with local, state, and federal agencies throughout Oregon to provide comprehensive services for trafficking victims, attempting to find and save victims from trafficking, and pushing for prosecution against traffickers.²⁴⁸ OHTTF works through its branch, Oregonians Against Trafficking Humans (OATH), and the nonprofit Catholic Charities to increase education and awareness throughout Oregon on the issue.²⁴⁹

D. OREGON GAPS

Oregon's anti-human trafficking initiatives have gaps in combating human trafficking, as well. Shared Hope International, a non-profit organization aimed at preventing conditions that cultivate sex trafficking and assist victims, provides a report card and score for all 50 states and their anti-sex trafficking efforts and legislation.²⁵⁰ According to Shared Hope International, Oregon's human trafficking efforts and anti-trafficking legislation only rate a score of 85, or B, in its effectiveness in preventing trafficking, protecting victims, and prosecuting traffickers.²⁵¹ It identifies a number of gaps in Oregon's efforts that need to be closed to ensure better support for victims of human trafficking and enable the judicial system to more successfully prosecute traffickers in cases. The weaker trafficking legislation, enforcement, and punishments in Oregon lead to a cultivation of lower costs associated with dealing and using human trafficking for both buyers and traffickers.

Oregon's trafficking statutes were meant originally as awareness tools instead of as a prosecutorial method. SB 578 advocates claimed the bill would increase public and law enforcement awareness on the issue of human trafficking, with testimony indicating

²⁴⁷ Burnett et al., "Modern Slavery in Our Midst," 60.

²⁴⁸ *Ibid.*, 44.

²⁴⁹ *Ibid.*

²⁵⁰ "Our Mission and Values," Shared Hope International, accessed July 11, 2016, <http://sharedhope.org/about-us/our-mission-and-values/>.

²⁵¹ "Oregon Report Card 2015," Shared Hope International.

that there would be minimal fiscal impact or increase in human trafficking cases since most cases would fall under federal jurisdiction.²⁵² State-level human trafficking cases are prosecuted under the compelling prostitution, commercial sexual exploitation of children (CSEC), or prostitution statutes.²⁵³ Since proponents of Oregon’s human trafficking statute originally believed it to be an awareness tool, prosecutors have found it challenging to prove human trafficking charges, having yet to obtain a successful human trafficking conviction; as of 2010, all charges had been dismissed or the defendants acquitted.²⁵⁴ Human trafficking case investigations are longer and more difficult to prosecute. Having to prove the element of force, fraud, or coercion in the case is time-consuming; officials must ensure victim support, working carefully with the victim witness to have them assist in the investigation, or run the risk of losing the victim to the trafficker again or through disengagement.²⁵⁵ To exacerbate the issue, the statute of limitations for prosecutions under the human trafficking statute is three years, whereas the statute for compelling prostitution is six years (unless the victim was under 18 years old, then the statute of limitations is when the victim turns 30 years old or within 12 years of the crime being reported, whichever is earlier); this demonstrates the downgraded severity of human trafficking compared to compelling prostitution, reducing the stigma of human trafficking and leaving victims of labor trafficking vulnerable.²⁵⁶

Oregon’s human trafficking statutes “neither reflect the gravity of the crime nor act as a deterrent.”²⁵⁷ Much like the federal statutes, Oregon’s statutes do not unilaterally and uniformly protect minors across all ages, making more severe the trafficking of younger minors. One of the elements of ORS § 163.266 (Trafficking in persons) is that a person commits the crime of trafficking in persons if they know or “recklessly [disregard] the fact that the other person is under 15 years of age and will be used in a commercial

²⁵² Burnett et al., “Modern Slavery in Our Midst,” 37.

²⁵³ *Ibid.*, 89.

²⁵⁴ *Ibid.*

²⁵⁵ *Ibid.*

²⁵⁶ “Oregon Report Card 2015,” Shared Hope International.

²⁵⁷ Burnett et al., “Modern Slavery in Our Midst,” 112.

sex act.”²⁵⁸ Additionally, defendants charged with purchasing sex with a minor may use an age mistake defense if they have no prior convictions and the age of the minor was at least 16 years old. This defense is not permitted for minors or purported minors under 16 years of age.²⁵⁹

When coupled with the different classes of felony offenses, this leaves minors between the ages of 16 and 18 vulnerable. First-time offenders of purchasing sexual services from over 16-year-old minors is a Class C felony compared to purchasing from under 16-year-old minors being a Class B felony. Since prostitution laws apply to minors in Oregon, underage sex trafficking victims could face criminal charges from being trafficked into prostitution instead of being identified as a trafficking victim.²⁶⁰ Willamette University’s International Human Rights Clinic puts it perfectly, noting that “Basically, the system is contradictory: minors cannot consent to sexual contact by law and are considered victims of a crime. However, if money changes hands, the system treats them not only as capable of consent, but also as if the victims themselves committed a crime.”²⁶¹ These actions essentially cement the minor victim in the hands of their traffickers, validating any force, fraud, or coercion they have implemented against their victims. This criminalization of victims is not isolated to only minors since the lack of convictions under Oregon’s human trafficking statute leads law enforcement and prosecutors to pursue easier to prove convictions under compelling prostitution or simply prostitution and immigration laws. This continues to place the burden and cost on trafficking victims, alleviating the cost of doing business on the traffickers and purchasers of trafficking.

There are no uniform SOPs for local or state law enforcement to identify trafficking victims or in investigating human trafficking cases.²⁶² Each agency maintains its own response procedures, which, according to a survey issued by the Willamette

²⁵⁸ 2015 Analysis and Recommendations Oregon, Shared Hope International.

²⁵⁹ Ibid.

²⁶⁰ “Oregon Report Card 2015,” Shared Hope International.

²⁶¹ Burnett et al., “Modern Slavery in Our Midst,” 68.

²⁶² Ibid., 82.

University Law Clinic to county sheriffs' offices and police departments, the majority of agencies do not have an internal SOP for handling human trafficking, with the exception of the Portland Police Department.²⁶³ Often, this is due to the belief that trafficking in a certain jurisdiction or area is not an issue, where other times it could be due to lack of awareness and education. ORS § 181.649 (Training in human trafficking) authorizes Oregon's Board on Public Safety Standards and Training to require that all police officers are trained in recognizing, investigating, and reporting human trafficking cases (both labor and sex) at "any advanced training program operated or authorized by the Department of Public Safety Standards and Training."²⁶⁴ In other words, the law allows Oregon to require and institute human trafficking training, but it does not mandate it or provide it at its law enforcement basic training program.

Providing human trafficking training at basic training is important in not only having the issue "remain in the recruits' minds and help orient them towards identifying victims,"²⁶⁵ but it also aids the recruits in understanding the problem of human trafficking from the beginning of their careers rather than try to change their mindset after they have already encountered it under the guise of prostitution or illegal immigration. Post-basic training education requires supplementation of this training as a refresher course and this type of training is not widespread anywhere in Oregon's law enforcement agencies. Since local police agencies may set their human trafficking training agendas in accordance with the Board on Public Safety Standards and Training, if an agency does not view trafficking as a problem or to exist in their area, they could choose not to train on trafficking.²⁶⁶ This mandated supplemental training would help close one of the biggest gaps in Oregon's fight against human trafficking since many agencies view "what constitutes trafficking [differently] in the eyes of the law."²⁶⁷ Currently, most of the awareness training efforts and law enforcement engagement initiatives are centered

²⁶³ *Ibid.*, 83.

²⁶⁴ 2015 Analysis and Recommendations Oregon, Shared Hope International.

²⁶⁵ Burnett et al., "Modern Slavery in Our Midst," 59.

²⁶⁶ *Ibid.*, 59.

²⁶⁷ *Ibid.*, 51.

around the counties surrounding Oregon's largest city, Portland, along its border with Washington, and is directed mostly towards sex trafficking (domestic minor sex trafficking to be more specific), rather than sex and labor trafficking as both components of human trafficking.²⁶⁸

Even if law enforcement personnel were more trained and aware of human trafficking, there would remain an issues with identifying victims due to trafficking's global and mobile framework. Oregon has no central reporting and record management system that can be used to compile data and keep record of victims and trafficking offenders, let alone the ability to cross-reference with offenders of other crimes. This lack of a central database for human trafficking records leaves a large gap across the state in victim identification, witness-provided information, and arrest charges surrounding victims and traffickers.²⁶⁹ A central system accessible by law enforcement on scene through patrol cars or radio in the field would allow personnel to pull up prior reports of trafficking victim statuses or patterns of arrests and interactions with law enforcement that could lead to identifying potential trafficking situations.²⁷⁰

Criminalizing victims not only exacerbates the issue of human trafficking, but it drives victims further under the control of traffickers and makes it easier for traffickers to successfully run their operation. This lack of victim protection, coupled with the lack of victim support, maintains the power human traffickers hold over their victims. One of the obstacles to providing victim support and protection is that victims often need assistance accessing resources, dealing with the judicial system, and most importantly, safe shelter in order to assist in prosecutions of traffickers. This period of separation from their trafficking situation is critical for the victim to recover, remove themselves from their trafficker, and feel safe enough to aid law enforcement and prosecutors in investigations and convictions.²⁷¹ Many agencies, like the FBI Victim Services unit in Oregon, do not have enough resources to handle case management of victims and are unable to provide

²⁶⁸ Ibid., 57.

²⁶⁹ Ibid., 48.

²⁷⁰ Ibid., 49.

²⁷¹ Ibid., 69.

extended services and support to victims in need.²⁷² Nothing under Oregon law requires services or support for either minor or adult victims of human trafficking, but there are NGOs that provide services with limited resources, occasionally supplemented with state resources, if available.²⁷³

Trafficking awareness is lacking not just among law enforcement personnel, but for the public generally. Much of the general understanding of human trafficking is on a basic level and is associated with sex trafficking of minors, which is where most trafficking efforts in Oregon are focused.²⁷⁴ Since most of the trafficking emphasis lies in this area, adult sex trafficking victims as well as labor trafficking victims are overlooked.²⁷⁵ Oregon's attention to minor sex trafficking is due mainly to two reasons: it is easier to identify minor trafficking victims and it is easier to prosecute traffickers under other laws, especially considering Oregon's lack of convictions under its human trafficking statutes.²⁷⁶ Oregon's failure to raise public awareness regarding human trafficking beyond minor sex trafficking leads to a large gap in identification by law enforcement and public reporting. If Oregon could expand public awareness beyond minor sex trafficking to include adult sex trafficking and labor trafficking of both domestic and foreign-born victims, it would drastically improve its human trafficking response and enable policymakers to build a case for more resources for victim support and services.

One obstacle to improving public awareness is victim identification. In comparison to minor sex trafficking, labor trafficking tends to be more difficult to identify and prosecute as the public generally and law enforcement particularly are often socially conditioned to recognize young-looking girls in precarious situations. Currently, there is a significant lack of accountability in major-risk industries for potential labor trafficking incidents—agriculture, clothing manufacturing, or food and hospitality

²⁷² *Ibid.*, 62.

²⁷³ *Ibid.*, 69.

²⁷⁴ *Ibid.*, 49.

²⁷⁵ *Ibid.*

²⁷⁶ *Ibid.*, 64.

services, among others, often use subcontracting systems or are more isolated, restricting labor departments from truly accounting for personnel.²⁷⁷ Contractors in high-risk industries who use human trafficking are “unlikely to comply with labor laws in the first place” and report employment information.²⁷⁸ Much of the compliance issues centers around the lack of enforcement or ability of labor departments to verify the number of employees a business reports; furthermore, BOLI, as of now, has only an initial contact with employees (if they are immigrant workers).²⁷⁹ In terms of public perception, labor trafficking, especially if viewed as illegal immigration, often causes a negative, emotional reaction. Further supporting the misconception surrounding the perception of labor trafficking victims stems from the fact that most of Oregon’s current efforts in human trafficking awareness campaigns are centralized in the Portland-metro area, with limited attention along the I-5 corridor.²⁸⁰ Since the majority of law enforcement agencies in the state do not have an SOP for identifying and handling human trafficking victims, the system is currently reliant on reports from the public or from victims self-identifying (if they can escape their traffickers), which leads to a victim identification system that is “haphazard and random.”²⁸¹

Although House Bill 3623 authorized the Oregon Liquor Control Commission to provide human trafficking informational stickers for certain establishments, these sticker postings are not mandated by either the House Bill or by liquor commission regulations.²⁸² This choice not to mandate the posting of trafficking stickers reduces the ability of the state to increase public awareness on the issue of human trafficking. Without a mandatory requirement to post information on human trafficking at high-risk establishments, the likelihood of increasing public awareness is limited. The postings should include information not just on sex trafficking, both minor and adult, but also on labor trafficking, its signs, and its potential victims, including those who are foreign-born.

²⁷⁷ Bales, Fletcher, and Stover, “Hidden Slaves,” 106.

²⁷⁸ Burnett et al., “Modern Slavery in Our Midst,” 42–43.

²⁷⁹ *Ibid.*, 42–43.

²⁸⁰ Burnett et al., “Modern Slavery in Our Midst,” 49.

²⁸¹ *Ibid.*, 64.

²⁸² *Ibid.*, 38.

Often, the lack of emphasis on foreign-born human trafficking victims is due in part to language barriers, which law enforcement does not always have the capability to interpret on scene. As a result, law enforcement will find someone near the victim who speaks both English and the victim's language, which occasionally could be the trafficker.²⁸³

Much like the federal response to trafficking, Oregon's efforts lack any real consequences for traffickers or buyers, causing low risks and, therefore, "manageable" costs for both the supplier (traffickers) and demand side (buyers) of human trafficking. Meanwhile, the feeble assistance to victims place the costs more on the goods itself, that is human trafficking victims. The decreasing punishments, much like the federal statutes, for trafficking of minors reduces the risks and calculable financial costs for traffickers over time. As they get better at trafficking and maintain their hold over their victims over time, the costs to the traffickers are reduced and transferred to the victim, since the victims are liable for prosecution for prostitution. Buyers of sex trafficking also encounter reduced costs under Oregon statute. As minors get older, buyers are enabled an age mistake defense to reduce their felony punishments. Additionally, buyers are offered a discharged sentence for attending a johns' school, again reducing the costs to first-time offenders, regardless of the positive impact these programs have on recidivism rates. Due to these flaws, Oregon's statutes continually fail to reduce the demand of human trafficking and, in some cases, decrease the risks and costs to traffickers and buyers by reallocating them to the victims. Lack of public awareness exacerbates the situation as the public fails to realize that victims are not necessarily prostitutes or labor trafficking victims (illegal immigrants) are not present in communities by choice.

E. FINDINGS

Traffickers currently experience a low-risk, low-cost operating environment for their criminal industry. Even when traffickers are charged, during prosecution they "have a constitutional right to be confronted by the witnesses accusing them of a crime,"²⁸⁴

²⁸³ Ibid., 65.

²⁸⁴ Burnett et al., "Modern Slavery in Our Midst," 98.

which, for a number of reasons, including psychological or safety issues,²⁸⁵ often leads to trafficking victims being unwilling to testify at trial, excluding his or her testimony from the prosecution's case. In the context of foreign-born trafficking victims, even where the trafficking victims are not arrested and deported to their home countries, they may still face death threats to their family or themselves.²⁸⁶ This lack of willingness to testify by victims can significantly influence a prosecutor's ability to convict traffickers as the case becomes inherently more difficult to prove as a strictly "[physical] evidence-based or confession-based prosecution."²⁸⁷

The findings of this research indicate that Oregon fails to effectively reduce and prevent human trafficking while providing substandard rights and protections for victims.²⁸⁸ In fact, as Multnomah County District Attorney Greg Moawad says, "the criminal justice system ... [is] not always very good about assisting the victims in addressing the issues that led them to the streets in the first place ... We're putting them in a situation where they are just going to go back out searching for someone to provide that sense of love and security again."²⁸⁹

Additionally, Oregon fails to understand and identify human trafficking as a crime separate from prostitution or undocumented workers. Portland is the only police agency in Oregon identified in the research that investigates prostitution cases with a Sex Crimes Unit and treats it with a higher priority in the event it is a human trafficking case, treating sex workers more as victims rather than offenders.²⁹⁰ The rest of the state appears still to handle trafficking and prostitution cases through vice units, using "minimal tracking of case management, inadequate review of incoming cases, lack of computers and databases, and insufficient levels of staff."²⁹¹ However, in the research, there is a lack of

²⁸⁵ Ibid., 99.

²⁸⁶ Finnemore, "Human Tender," 5.

²⁸⁷ Burnett et al., "Modern Slavery in Our Midst," 99.

²⁸⁸ Ibid., 109.

²⁸⁹ Finnemore, "Human Tender," 5.

²⁹⁰ Burnett et al., "Modern Slavery in Our Midst," 83.

²⁹¹ Ibid.

focus on labor trafficking by Portland and other police agencies. However, some NGOs do encounter and address labor trafficking through their outreach work. Staff attorney for the Catholic Charities Immigration Legal Services, Amrit Dhillon, for example, indicates the challenge in validating labor trafficking in Oregon is determining if claims are classified as “egregious labor violations,” which fall under BOLI’s purview, or are indeed human trafficking cases.²⁹²

Many of the shortcomings of the current policies stem from a lack of resources, such as funding for equipment and personnel to conduct investigations in labor and sex trafficking and online (cyber) activities in human trafficking.²⁹³ As stated, Oregon’s lack of victim assistance resources also contributes to the failures of human trafficking policies. There are no secure shelters for victims of any form of human trafficking, let alone the federally required shelters for victims of “severe forms of trafficking.”²⁹⁴

Although there is some effort in Oregon to obtain donations and resources to build a shelter for trafficking survivors that provides temporary housing, counseling, medical assistance, and employment transition assistance.²⁹⁵ Lack of personnel and resources contributes to the ineffectiveness of investigations into potential trafficking cases, causing law enforcement to focus on the easier charges of prostitution in potential sex trafficking incidents. As indicated, charging prostitutes and sex workers in the justice system criminalizes the victims and places the burden of risks and costs within the industry on the victims where the traffickers and buyers experience relatively unfettered benefits in the market and can even “avoid any criminal record or fines” through diversion programs.²⁹⁶

It is evident that the human trafficking response in Oregon is inadequate to reduce the human trafficking market, since it holds the second largest city for sex trafficking.²⁹⁷

²⁹² Finnemore, “Human Tender,” 3.

²⁹³ Burnett et al., “Modern Slavery in Our Midst,” 106.

²⁹⁴ *Ibid.*, 4.

²⁹⁵ Finnemore, “Human Tender,” 6.

²⁹⁶ Burnett et al., “Modern Slavery in Our Midst,” 4.

²⁹⁷ *Ibid.*, 62.

Head of a human trafficking abolition project, St. Joseph Sister Susan Francois believes “we need to focus on demand.”²⁹⁸ While true, for the market truly to reduce the incidences of human trafficking as a whole, Oregon must target the supply side of the industry as well. If both supply and demand are reduced, the shift will reduce the equilibrium quantity of the good—or in this case, human trafficking victims. The findings suggest that evaluating the crime of human trafficking in Oregon under the framework of a supply and demand relationship and introducing policies that adversely affect the cost-benefit analyses by suppliers and demanders. With the objective of creating a reduction in human trafficking cases, introducing economic market-based policies will cause suppliers and demanders to reevaluate and determine the costs of conducting human trafficking substantially outweigh the benefits.

²⁹⁸ Ed Langlois, “Human Trafficking Continues to Claim Victims in Oregon,” *Catholic Sentinel*, January 1, 2009, <http://www.catholicsentinel.org/main.asp?SectionID=2>.

IV. APPLYING SUPPLY AND DEMAND IN OREGON

The only thing necessary for evil to triumph is for good men to do nothing.

— Edmund Burke

This chapter addresses the problem of human trafficking in Oregon and identifies the trafficking market within the context of the state. Various factors contribute to the issue of human trafficking and its prevalence within the state. This chapter identifies the increasing incidence of human trafficking in Oregon as the shortcomings of the state's efforts and the nature of the crime creates an ideal industry for traffickers and demanders to benefit from human trafficking with low risk or costs to their livelihood. It addresses how the human trafficking market applies in Oregon.

Oregonians, as a whole, are generally unaware of the issue of human trafficking and its economy in the state.²⁹⁹ The perpetual nature of the problem and the fact that the majority of the population either misunderstands or is unaware of the issue allows traffickers to operate unhindered, as evidenced by the fact that some victims have been isolated and trafficked for more than 10 years.³⁰⁰ Oregon's legal and cultural environment caters to an unfettered supply and demand market of human trafficking in the state. As identified in the previous chapter, the legislative enforcements are weak and lack any significant deterrent for traffickers (suppliers) or the buyers (demanders) of human trafficking. The risks and costs to both the supply and demand curves of human trafficking are not significant enough to overcome the benefits for each and, although normally costs would not be placed on goods in a normal market, costs and risks are placed on the goods of human trafficking in this industry—the victims themselves. Oregon's environment facilitates this shift in costs and benefits that aid in the growth of the problem.

²⁹⁹ "Human Trafficking in Oregon," Task Force on Human Trafficking, 2.

³⁰⁰ Finnemore, "Human Tender," 3.

Oregon, and in particular Portland, is a hotbed of human trafficking that is so widespread that a recent FBI sting operation netted the second-highest incidence of sex trafficking cases in the nation—behind only Seattle, Washington, and tied with Oakland, California.³⁰¹ Strikingly, Portland’s total was from a one-night operation, while Seattle and Oakland’s totals stemmed from operations over multiple days.³⁰² In Portland, 50 percent of the victims were minors.³⁰³ This statistic is a clear indication that the underground market for human trafficking is high in Oregon, though it is unclear to what extent.

A. THE SUPPLY DEMAND OF HUMAN TRAFFICKING IN OREGON

Oregon is not immune to the associational problems of human trafficking. With the continued war on drugs and Oregon’s legalization of marijuana, human trafficking is becoming increasingly financially rewarding as a source of profit. Unlike drugs, which can only be sold once, trafficking victims can be resold many times and, thus, bring traffickers and criminal organizations constant income.³⁰⁴ The Work Group on Human Trafficking conducted an investigation for the Oregon Congressional Interim Judiciary Committee and identified a number of findings, notably that human trafficking exists in Oregon, but the extent is unknown, similar to human trafficking studies across the globe.³⁰⁵

Oregon’s “lax trafficking laws” in conjunction with its high percentages of foster care and runaway youths, rural agricultural and forestry industries, and migrant seasonal worker operations facilitate a thriving market for human trafficking.³⁰⁶ Oregon’s Constitution provides substantial freedom of speech, which offers more protection than the federal Constitution,³⁰⁷ protecting Oregon’s flourishing commercial sex industry,

³⁰¹ Burnett et al., “Modern Slavery in Our Midst,” 62.

³⁰² *Ibid.*

³⁰³ Finnemore, “Human Tender,” 2.

³⁰⁴ Langlois, “Human Trafficking Continues to Claim Victims in Oregon.”

³⁰⁵ “Human Trafficking in Oregon,” Task Force on Human Trafficking, 1.

³⁰⁶ Burnett et al., “Modern Slavery in Our Midst,” 2.

³⁰⁷ *Ibid.*, 35.

most notably in Portland which touts “the highest number of sexually oriented businesses per capita of any city in the nation.”³⁰⁸

While prostitution is still illegal in the state, Oregon’s legalized sex industry increases demand for sexual services and makes Oregon a breeding ground for illegal sex activities like prostitution, illicit sexual display of minors, and human trafficking.³⁰⁹ The free speech-enabled sex shops and strip clubs in Oregon, including Portland’s “largest [commercial] sex industry per capita in the nation,”³¹⁰ allow trafficking to occur while remaining hidden in plain sight.³¹¹ Stigmatized in an industry that provides almost no oversight, workers in Oregon’s commercial sex industry are primarily “independent contractors” that do not require permits³¹² and, thus, the level of accountability is diminished and illicit activities, including human trafficking, occurs behind the cover of a legitimate sex business.³¹³ Sex trafficking and prostitution cases of minors in Portland-area strip clubs are not uncommon,³¹⁴ proving that in a large commercial sex industry, demand for sexual services dangerously shifts the supply curve further right, increasing the number of victims of human trafficking.

Portland’s unique location contributes to the ubiquity of trafficking. Two interstate freeways intersect Portland, with Interstate-5 (I-5) running north to south, providing traffickers with a largely unfettered thoroughfare from Canada to Seattle to Los Angeles to Mexico,³¹⁵ and I-84 providing the same access running west to east from Portland to Boise to Las Vegas.³¹⁶ Portland is also, as its name suggests, a port city that

³⁰⁸ Ibid., 39.

³⁰⁹ Ibid.

³¹⁰ Finnemore, “Human Tender,” 2.

³¹¹ Burnett et al., “Modern Slavery in Our Midst,” 40.

³¹² The Associated Press, “Portland Strippers Head to Salem to Lobby for Better Work Conditions,” *OregonLive.com*, February 02, 2015, http://www.oregonlive.com/politics/index.ssf/2015/02/portland_strippers_head_to_sal.html.

³¹³ Burnett et al., “Modern Slavery in Our Midst,” 2.

³¹⁴ Andy Campbell, “Where Strip Clubs Thrive In Portland, So Does Child Sex Trafficking,” *Huffington Post*, June 26, 2015, http://www.huffingtonpost.com/2015/06/25/child-sex-trafficking-strip-clubs-portland_n_7650778.html.

³¹⁵ Burnett et al., “Modern Slavery in Our Midst,” 3.

³¹⁶ Ibid., 2–3.

allows international access for traffickers to move victims domestically and internationally to, from, and through Portland and the rest of Oregon.³¹⁷ These geographic factors create a criminal utopia for human trafficking that influences the supply of victims within the state. Throughout Oregon, police encounter three to five victims of human trafficking weekly,³¹⁸ with 80 percent of these victims being women and 50 percent being minors.³¹⁹

Most of Oregon's major urban areas lie along the I-5 corridor that runs north and south in the state; the rest of the state is composed of vast swaths of forest and rural land. These sizable rural regions of Oregon are ideal settings for labor trafficking.³²⁰ Yet human trafficking statistics for these regions are even more deficient than those for Portland. Southern and rural Oregon, for example, has faced increasing vulnerability of potential victims and minors, especially runaway and homeless youths, to sex trafficking and a stark increase in the incidence of sex crimes against minors.³²¹ In fact, trends indicate that more adults are traveling to Southern Oregon (sex tourism) to commit sex crimes against minors, which has contributed to the increase in the crimes of child pornography and sexual exploitation of minors (29-percent increase of child pornography and minor sexual exploitation crimes from 2008 to 2009).³²²

As of 2012, Oregon ranked 49th out of 51 states and the District of Columbia for foster care placements of children and helping minors who suffer abuse or neglect.³²³ According to some statistics, in some urban areas, 30 to 40 percent of homeless or runaway youths come out of the foster care system, that equates to between 20,000 and 25,000 homeless minors in Oregon.³²⁴ Experts, such as Oregon's Human Trafficking

³¹⁷ Ibid.

³¹⁸ Langlois, "Human Trafficking Continues to Claim Victims in Oregon."

³¹⁹ Burnett et al., "Modern Slavery in Our Midst," 3.

³²⁰ Langlois, "Human Trafficking Continues to Claim Victims in Oregon."

³²¹ Burnett et al., "Modern Slavery in Our Midst," 3.

³²² Ibid.

³²³ *Right for Kids Ranking*, Foundation for Government Accountability, Report, 2012, <http://rightforkids.org/files/8113/4064/8461/FGA-RightForKidsBook-web-single-pages.pdf>.

³²⁴ Burnett et al., "Modern Slavery in Our Midst," 3.

Task Force Manager Keith Bickford, estimate that within 48 hours, up to one third of truant youths are lured into prostitution.³²⁵ Based off these numbers, a conservative estimate of 6,000 to 8,000 homeless youths could be brought into prostitution. These staggering numbers demonstrate the potential for the human trafficking market to grow, as suppliers have access to thousands of victims to exploit as commodities and provide for an ever-increasing demand for trafficking victims.

Although there are some data anecdotally provided by law enforcement and a report created on sexual exploitation of minors (a form of sex trafficking), there is no official or easily accessed statewide report or study on human trafficking in Oregon and its statistical data. This lack of official data represents a dearth of awareness regarding human trafficking, making it difficult to create comprehensive and targeted anti-human trafficking approaches. The National Human Trafficking Resource Center is a national reporting hotline run by the NGO Polaris Project that answers calls within the United States “24 hours a day, 7 days a week, in more than 200 languages.”³²⁶ According to statistics from this hotline, based on reports received that reference Oregon, in 2015, out of 252 calls, 56 human trafficking cases were reported.³²⁷ Out of the 56 cases, 44 (78.6 percent) were sex trafficking cases; eight (14.2 percent), labor; three (5.4 percent), type was not specified; and one (1.8 percent), both sex and labor.³²⁸

Based on national statistics, it is reasonable to presume that in nearly 80 percent of sex trafficking cases reported³²⁹ the victims were women, since more often than not, women are found as victims of sex trafficking.³³⁰ Although law enforcement in Oregon indicates nearly 50 percent of victims encountered are minors, the hotline cases report 14 (25 percent) of cases involved minors, demonstrating a discrepancy between encountered

³²⁵ Finnemore, “Human Tender,” 1.

³²⁶ “National Human Trafficking Resource Center,” Polaris, last modified in 2015, <http://polarisproject.org/national-human-trafficking-resource-center>.

³²⁷ Ibid.

³²⁸ Ibid.

³²⁹ Ibid.

³³⁰ Burnett et al., “Modern Slavery in Our Midst,” 3.

cases and reported cases.³³¹ Multnomah County in Portland put together a report on the Commercial Sexual Exploitation of Children that identified 469 confirmed minor victims of sexual exploitation from 2009 to 2013,³³² with the most common age of minor victims being 15 years old.³³³

Outside of the I-5 corridor, Oregon is largely agricultural and rural. The vast expanse of these regions and limited law enforcement resources provide prototypical environments allowing for labor trafficking to flourish, especially among “immigrant, migrant, and undocumented workers.”³³⁴ Access to farms and camps in these rural areas is constricted, creating difficulty in oversight of labor practices.³³⁵ As costs of living and operating businesses increase and profit in high-risk industries struggle to keep pace, businesses and employers look to cheaper labor as an avenue to reduce costs, creating an increase in demand for labor trafficking victims.

B. HOW THE MARKET WORKS IN OREGON

As indicated earlier, the supply curve is influenced by traffickers as the suppliers, the demand curve is influenced by the buyers and users of human trafficking, and the goods or services (commodities) are the trafficking victims. The goal of shifting both supply and demand curves to shift the equilibrium quantity of the human trafficking goods is based on the premise of influencing supply and demand actors to reassess and reevaluate the cost-benefit of entering or operating in the market of human trafficking, as Schaffner proposed.³³⁶ Detering criminal behavior and engaging in the use of human trafficking victims can be evaluated rationally as an assessment of the costs and risks to benefits ratio, which is subject to change.³³⁷ As Shelley noted, human trafficking grows

³³¹ “National Human Trafficking Resource Center,” *Polaris*.

³³² Sarah Ohlsen, *Commercial Sexual Exploitation of Children: A Status Report for Our Jurisdiction, Multnomah County*, Report, 2015, <https://multco.us/file/38173/download>, 14.

³³³ *Ibid.*, 16

³³⁴ Burnett et al., “Modern Slavery in Our Midst,” 4.

³³⁵ *Ibid.*

³³⁶ Schaffner, “Optimal Deterrence,” 1533.

³³⁷ *Ibid.*, 1542.

because the world has created a market that influenced an increase in supply and demand.³³⁸

As indicated in the findings throughout this thesis, more costs and risks are placed on victims of human trafficking than on their traffickers. Victims are defined in the supply and demand market as goods and services. Whether criminalized as prostitutes, treated as illegal immigrants, or provided few, if any, safety resources, human trafficking victims bear a heavy share of the costs in relation to their traffickers or buyers. Part of the reason for victims bearing more of the costs of trafficking is due to a lack of awareness and education on the issue, especially in Oregon among both the public and law enforcement.

Much of the human trafficking market in Oregon operates under the guise of legal businesses, underground online platforms, or on the black market. Strip clubs are prime examples of seemingly legal establishments that run trafficking operations for either underage strippers or prostitution, both underage and adults.³³⁹ Portland police indicate that the suppliers capitalize on the demand for prostitution services, which leads to an increase in human trafficking in strip clubs as a sales point for the market. Strip clubs become an ideal location for the human trafficking market to grow as, “generally speaking, you have guys there, with money, already looking for sex. If you are a pimp or a sex trafficker, it’s a good place to peddle your services.”³⁴⁰

The human trafficking industry in Oregon also operates online in a hidden underground market. Backpage.com, among other sites known for bolstering trafficking, places hundreds of advertisements online weekly, many of which are sex trafficking schemes.³⁴¹ Over the course of just six days, Portland arrested 28 men in an undercover sting using these online advertisements, demonstrating the high demand for sex services

³³⁸ Shelley, *A Global Perspective*, 2.

³³⁹ Campbell, “Where Strip Clubs Thrive.”

³⁴⁰ Ibid.

³⁴¹ Ibid.

within the state.³⁴² A trafficking and prostitution ring that exposed one Portland-based pimp (the largest trafficking bust in the country), uncovered over 100 women and children advertised online, the youngest being 14 years old.³⁴³ These numbers exemplify how the human trafficking industry operates not just in commercial sex establishments, but increasingly online.

Increased prosecution and focus on criminalizing the sale and purchase of sexual services (trafficking and pimping) rather than victims is the most reliable method for increasing costs and risks to traffickers. Because traffickers are operating in a criminal environment, heavy pursuit of convictions from law enforcement and the judicial system is the best way to increase the costs to traffickers in order to overcome the benefits of human trafficking profitability. Oregon does not currently successfully apply high risks and costs to either traffickers (suppliers) or buyers (demanders) and is experiencing a booming human trafficking industry within its borders.³⁴⁴ In other words, supply and demand curves are shifting at the cost of the victims.

Just north of Oregon's borders in Washington, for example, the state trafficking law prohibits the purchase of a person for commercial sex acts.³⁴⁵ Washington, which received an "A" grade from Shared Hope International (compared to Oregon's "B" grade), punishes buyers of sexual services with a mandatory \$10,000 fee, if convicted of trafficking.³⁴⁶ Washington mandates a \$5,000 fee for online advertisement, embedding a scaled version of the Computer Fraud and Abuse Act in its state statutes. These mandatory fees, coupled with higher prosecution rates and imprisonment, greatly increase risks and costs to consumers of commercial sexual services (and, as a result, sex trafficking) and contribute to a higher cost versus benefit analysis in the human

³⁴² "Portland Police Arrest 28 Men in Online Sex Sting," KOIN 6, August 15, 2016, <http://koin.com/2016/08/15/portland-police-arrest-28-men-in-online-sex-sting/>.

³⁴³ Maria Anderson, "The Price of a Life: Human Trafficking in Lane County," *Eugene Daily News*, accessed September 1, 2016, <http://eugenedailynews.com/2012/09/the-price-of-a-life-human-trafficking-in-lane-county/>.

³⁴⁴ Finnemore, "Human Tender," 2.

³⁴⁵ "Washington Report Card 2015," Shared Hope International, last modified in 2015, http://sharedhope.org/PICframe5/reportcards/PIC_RC_2015_WA.pdf.

³⁴⁶ *Ibid.*

trafficking market in Oregon. While Oregon does criminalize the purchase of sexual services, or patronizing under ORS § 167.008, its punishments and fees are lackluster.³⁴⁷

Labor trafficking has just as active a market as sex trafficking does in Oregon, but it is less visible and receives less attention. The labor trafficking market occurs in a variety of industries throughout Oregon, including field-work, domestic servitude, and sweatshops, especially in more remote locations such as Central Oregon.³⁴⁸ In this market, it is particularly easy to isolate and exploit vulnerable people as business owners or employers (buyers or users) can simply confiscate legal documentation or passports of victims, especially foreign-born victims, and force them to work “washing dishes in the back of a restaurant.”³⁴⁹ The labor trafficking market in Oregon relies on the demand from users to drive forced labor use in businesses and industries. The demand actors (employers and business owners) use labor trafficking victims in their business operations or supply chain, which drives up demand for cheap, exploitable labor.

Oregon has indicated it wants to focus on this sector of the market in Oregon and deter labor trafficking within its borders, turning more attention to foreign-born labor trafficking.³⁵⁰ Oregon is beginning to understand the labor trafficking market hinges on the reluctance of victims to report violations of trafficking, often times due to undocumented or illegal status, fear of deportation, language barriers, or distrust in law enforcement.³⁵¹ The market thrives, hidden within legitimate businesses and industries, because many workers keep hidden, believing they do not have rights or a safe place to escape to, in addition to the exploitation and coercive methods traffickers and owners use

³⁴⁷ “Prostitution, Pimping, and Pandering Laws in Oregon,” CriminalDefenseLawyer.com, accessed August 7, 2016, <http://www.criminaldefenselawyer.com/resources/criminal-defense/state-crime/pandering-laws-oregon.htm>.

³⁴⁸ Kevin Sperl, “Human Trafficking Concerns Brought to Central Oregon,” *Portland Tribune*, October 21, 2014, <http://portlandtribune.com/ceo/162-news/237526-102935-human-trafficking-concerns-brought-to-central-oregon>.

³⁴⁹ Ibid.

³⁵⁰ Maxine Bernstein, “Oregon’s Federal Prosecutor Promises More Attention to Labor Trafficking in Oregon,” *OregonLive.com*, October 15, 2013, http://www.oregonlive.com/portland/index.ssf/2013/10/oregons_top_federal_prosecutor_1.html.

³⁵¹ Ibid.

on victims.³⁵² Additionally, the market thrives because the victims are the ones criminalized and marginalized, much like sex workers, rather than the traffickers and employers themselves.³⁵³ To attempt to better understand, control, and attack this market in Oregon, the OHTTF created an offshoot of its task force: the Oregon Foreign-Born Human Trafficking Task Force consisting of an assistant United States Attorney, FBI, ICE, Department of Labor, and local law enforcement agents, among others.³⁵⁴

C. SUMMARY

Oregon is not immune to the problem of human trafficking. In fact, considering the contextual factors listed in this chapter, it could be argued that it is more prone to human trafficking than other states. Oregon's more liberal freedom of speech and more fluid acceptance of sexual mores and behaviors has allowed for a booming commercial sex industry, which allows human trafficking to thrive under the auspices of legitimate businesses. The highly profitable commercial sex industry drives demand and a willingness to pay for sex, regardless of whether the sex worker is a trafficking victim, especially considering the low costs and risks for everyone but the victims.

Additionally, Oregon's largely agricultural landscape, along with restaurants, logging, and other high-risk industries, allow an increase in the demand and use of labor trafficking victims. The difficulty in oversight and management by BOLI and law enforcement, along with general unease and fears by victims to seek help, allow labor trafficking to grow in these industries and run relatively unchecked. The labor trafficking market is only just beginning to be uncovered within Oregon, yet not quickly or aggressively enough. Overall, the human trafficking market in Oregon is flourishing on the many liberties and lack of risks afforded the actors in the industry.

³⁵² Ibid.

³⁵³ Ibid.

³⁵⁴ "Human Trafficking," Oregon State Sheriffs' Association, last modified August 1, 2015, <http://oregonsheriffs.org/news/human-trafficking/>.

V. POLICY RECOMMENDATIONS AND CONCLUSION

I am only one, but I am one. I can't do everything, but I can do something.
The something I ought to do, I can do. And by the grace of God, I will.

— Edward Everett Hale

Oregon efforts to combat human trafficking falls short due to the numerous gaps discussed above. These gaps fail to address that human trafficking is an industry that is driven by supply and demand. In order for Oregon to have increased success in combating human trafficking and reducing the prevalence of victims within its borders, it must adopt an economic mindset to attack the crime, engaging the supply and demand curves of the market and forcing drivers to affect their shift. In order to reduce human trafficking and adhere to the TVPA's foundational pillars of "prosecute, protect, and prevent," Oregon cannot criminalize victims and potential victims and fail to provide services for recovery and safety. Thus, a three-pronged approach for combating human trafficking must be all-encompassing. Increasing the costs and risks associated with trafficking will shift the cost-benefit analysis in favor of costs and create changes in the supply and demand.

No one recommendation is comprehensive enough to address and fight the complex and diverse crime of human trafficking, as the crime itself is broken down into both sex and labor trafficking that each bring with it its own amalgam of sub-issues. However, the three components recommended in this section will enable Oregon to strengthen its anti-human trafficking efforts throughout the state.

First, reducing costs and risks to victims and potential victims. Criminalizing victims places all the costs on human trafficking victims and alleviates the risks for traffickers, inciting them to engage in more trafficking for more profit, since they believe that the victims will be the ones to assume the risks and costs. Changing this mentality in law enforcement and legislation will shift the costs and risks back to the traffickers and users.

Second, increasing the costs and risks to traffickers, or the supply side of the market, will cause an increased reluctance on the part of traffickers to engage in the crime. As the potential profit gained from victims remains the same, but the costs and risks increase to overcome the profit, more and more traffickers will refrain from engaging in the crime, as the cost-benefit analysis is deemed unfavorable. Third, increasing costs and risks to users of human trafficking, or the demand side of the market, will cause a decline in the willingness to purchase or use trafficking victims. Both sex and labor trafficking users will reconsider their cost-benefit analysis when costs increase for them to demand victims. Sex buyers should face increased felony punishments, including imprisonment, fines, public notification, and reeducation. Businesses and employers who use labor trafficking victims, “cheap labor,” must face risks of asset seizures, fines, and potential closure of businesses beyond potential profit losses.

Lastly, underlying all three of these recommendations is a need for Oregon to increase public awareness of the issue of human trafficking within its population. Oregon must work with the media, law enforcement, and general social media to create awareness campaigns that boost the understanding of human trafficking, including what it is, de-bunking myths and misconceptions, and providing signs of what to look for in victims. This growth in awareness will allow and motivate Oregon to institute the recommended policies and aim to reduce human trafficking within its borders.

This chapter addresses policy recommendations based on the research that suggest a stronger anti-human trafficking platform would create a substantial shift in the supply-demand relationship. These recommendations are based on the applied economic theory of supply and demand with the objective of introducing higher risks and costs into the market in order to reduce the supply and demand curves and, as a result, the number of human trafficking victims. It provides a number of policy recommendations that, if incorporated, should negatively affect the profitability and pervasiveness of human trafficking in Oregon. The recommendations are categorized into three sections: reducing costs to the victims, increasing costs to the suppliers, and increasing costs to the buyers. These sections are the basic notions assessed throughout this thesis on the best ways to de-incentivize supply and demand trafficking markets and play on the strengths of supply

and demand functions. This three-pronged approach will allow Oregon to expand its anti-human trafficking efforts in order to prevent the growth of the trafficking market and reduce victims within the state.

Throughout this chapter, a number of case study examples are provided to support the policy recommendations. Sweden introduces a policy of decriminalizing the sale of sexual services and criminalizing procuring and the purchase of sexual services. Missouri's Western District provides examples of successful aggressive prosecution efforts. Alameda County's Human Exploitation and Trafficking (H.E.A.T.) Watch of California demonstrates the success seen when a comprehensive approach to sex trafficking is applied and trafficking victims are not criminalized, rather the focus on prosecution is on the traffickers. A small number of other examples of cities or businesses are provided as supporting information to provide a comparative assessment on whether Oregon should implement the recommended policies.

A. REDUCE COSTS TO VICTIMS (“COMMODITIES”)

Victims currently bear the brunt of prosecution, criminalization, and marginalization by the justice system and, thus, alleviate any risks and costs associated with the crime for traffickers and users. For example, in the 2005 End Demand for Sex Trafficking Bill, Congressional findings indicated for every one male arrested for purchasing sex, 11 females were arrested for prostitution in Boston; one male to six females were arrested in New York City; and zero buyers, two pimps, and 153 minors arrested for prostitution in Las Vegas.³⁵⁵ These statistics are clearly indicative of the drastically skewed criminalization and burden of costs on sex workers and potential human trafficking victims compared to traffickers and buyers. Though no major data has been found for Oregon in terms of victim prosecution compared to trafficker or buyer prosecution, the gaps in Oregon's legislation and the findings identified in Chapter 3 indicate a insufficient focus on protecting victims and reducing costs to them.

³⁵⁵ *Demand. A Comparative Examination of Sex Tourism and Trafficking in Jamaica, Japan, the Netherlands, and the United States*, Shared Hope International, Publication, accessed August 20, 2016, <https://sharedhope.org/wp-content/uploads/2012/09/DEMAND.pdf>, 91.

1. Increase Awareness and Education

An increase in awareness and education is, thus, pivotal in the first step in efforts for combating human trafficking. As the Willamette Law School Clinic states:

The lack of public awareness of the scope of the trafficking problem in Oregon contributes to apathy around funding and legislative initiatives, which undermines prevention efforts or educational campaigns, further exacerbating the situation. Training law enforcement and other public authorities charged with combating trafficking in the state is not possible without mandates and additional funding.³⁵⁶

In other words, combating human trafficking requires adequate resources, funding, and trained law enforcement personnel. Without awareness of the issue among the public and officials, there is no incentive to demand stronger anti-human trafficking initiatives. An increase in awareness of human trafficking can increase the demand from the public for more socially conscious produced commodities, putting consumers' pressure on companies and employers to eliminate human trafficking from their supply chain.³⁵⁷ Increasing awareness and education should not be centralized in one major metropolitan area in Oregon (Portland) nor should it be solely or heavily focused on sex trafficking.

An Oregon Work Group on Human Trafficking established a report to Oregon's Senate Interim Judiciary Committee and House Interim Judiciary Committee on human trafficking in Oregon in 2008. It recommended an increase in education for the general population on human trafficking in Oregon, education for the law enforcement community, education of front-line law enforcement officers at their roll calls on the issue, and training credits for human trafficking-related educational programs for law enforcement and other legal professionals as an incentive for further education.³⁵⁸ These recommendations have not been implemented, but organizations like Oregon's Human Trafficking Task Force and Catholic Charities are willing to assist organizations in

³⁵⁶ Burnett et al., "Modern Slavery in Our Midst," 5.

³⁵⁷ Bales, Fletcher, and Stover, "Hidden Slaves," 50.

³⁵⁸ "Human Trafficking in Oregon," Task Force on Human Trafficking, 1-2.

providing presentations concerning the issue.³⁵⁹ Additionally, the Work Group suggested collaborating with the media to create and distribute human trafficking public service announcement and awareness campaigns, as well as reporting more on human trafficking cases in Oregon.³⁶⁰

Missouri's Western District, or the western half of the state, for example, has been one of the more successful task forces and has attracted positive attention for its prosecution of human trafficking crimes.³⁶¹ Part of its success has to do with the collaboration with local media on increasing awareness of the issue in the region. The Western District also benefits from Kansas City media reporting on regional human trafficking issues, and the increased media coverage creates a more informed public who provide leads and tips on human trafficking cases.³⁶² Missouri's Assistant United States Attorney Cynthia Cordes indicates that human trafficking is not more prevalent, but that they are looking for and finding it.³⁶³

California's Alameda County, which encompasses Oakland, which is tied with Portland for second most prevalent sex trafficking cases,³⁶⁴ has also incorporated a public and law enforcement awareness strategy under its H.E.A.T. Watch program. In its five-point comprehensive response plan implemented in the county and within the Bay Area, three of its five-point strategies involve awareness: "robust community engagement..., training for and sensitization of law enforcement..., and education of and advocacy to policy makers."³⁶⁵ H.E.A.T. Watch provide training that dispels misconceptions about human trafficking, identifying risk factors, and providing information to raise awareness

³⁵⁹ Ibid., 7.

³⁶⁰ Ibid., 7.

³⁶¹ Abby Duncan, "A Tale of Two Districts: Lessons Learned from Missouri's Human Trafficking Task Forces," *Review of 33 St. Louis U. Pub. L. Rev.* 191, Saint Louis University Public Law Review, 2013, 1.

³⁶² Ibid., 10.

³⁶³ Ibid., 15.

³⁶⁴ Burnett et al., "Modern Slavery in Our Midst," 62.

³⁶⁵ "H.E.A.T. Watch Toolkit Executive Summary," Alameda County, The Office of the District Attorney, H.E.A.T. Watch, accessed July 7, 2016, http://toolkit.heatwatch.org/files/Toolkit_Exec_Summary_compressed.pdf.

using a variety of platforms, including social media, websites, online radio shows, public service announcements, and billboards.³⁶⁶

2. Establish a Standard Operating Procedure

Oregon should establish an SOP for law enforcement throughout the state, regardless of perceived ubiquity of human trafficking in the area. An SOP would increase identification of human trafficking victims and, as a result, create an increased awareness and understanding of the importance of differentiating trafficking victims from criminals and reducing the burden of costs to victims. Law enforcement and public officials must be made aware of the problem of human trafficking and establishing an SOP would help treat encounters with high-risk people as potential victims. An established procedure to address victim identification and investigation would entail “asking the right questions in the right way in order to maximize victim cooperation.”³⁶⁷ There is a need to shift law enforcement mentality on encounters with victims and potential victims on first contact and during investigation in order to avoid potentially criminalizing victims and dissuading them from assisting law enforcement in prosecuting traffickers.³⁶⁸

While there is no need to enact legislation to establish an SOP, the Oregon law enforcement community must establish an SOP alongside the Department of Public Safety Standards and Training. Oregon must begin viewing prostitution and labor immigrants as potential human trafficking victims and look at them with an eye out for victims in need of support and social services instead of criminals. H.E.A.T. Watch, for example, understands that law enforcement and public officials must engage with potential victims differently. Law enforcement in Alameda County views minors engaging in prostitution as exploited youth victims rather than prostitutes in order to avoid marginalizing them; law enforcement engage with potential victims differently

³⁶⁶ Ibid.

³⁶⁷ Burnett et al., “Modern Slavery in Our Midst,” 53.

³⁶⁸ Ibid., 54.

through SOPs that establish specific questions to ask potential victims.³⁶⁹ Oregon should adopt a similar procedure.

Of course, the SOP established for Oregon must also account for labor trafficking, including in its process a way to determine if workers are exploited workers and labor trafficking victims. Although law enforcement encounters with labor trafficking victims in more rural areas of Oregon are less likely,³⁷⁰ an inclusion of labor trafficking in a law enforcement SOP will contribute to an all-inclusive anti-human trafficking system. An immediate treatment of potential victims as illegal workers, migrants, or undocumented workers places the criminalization and marginalization risk on victims and drastically affects the ability for prosecution against traffickers as a result.

3. Decriminalize the Sale of Sexual Services (Prostitution)

Reducing the costs and risks to victims entails a drastic change in not just perception and awareness, but policy. Perhaps the most influential recommendation to policy in Oregon in order to reduce costs to victims and affect human trafficking incidents is to decriminalize the sale of sexual services. This is not to say Oregon needs to legalize prostitution. The recommendation simply advocates a shift in the legal view away from the actor being solely responsible for the crime of prostitution.

Sweden, as an example, has been applauded for its efforts internationally in working to combat human trafficking. Its focus has been primarily on human trafficking for the purposes of sexual exploitation through prostitution.³⁷¹ In 1999, Sweden decriminalized the sale of sexual services and made illegal the purchase of sexual services.³⁷² In line with this effort, though the purchase of sexual services is illegal, the selling of sexual services is not.³⁷³ Sweden's focus on humanitarian issues, gender

³⁶⁹ "H.E.A.T. Watch Toolkit Executive Summary."

³⁷⁰ Burnett et al., "Modern Slavery in Our Midst," 4.

³⁷¹ *The Organisation of Human Trafficking: A Study of Criminal Involvement in Sexual Exploitation in Sweden, Finland and Estonia*, Report no. 2008:21, Stockholm: Swedish National Council for Crime Prevention, 2008, 20-23.

³⁷² *Ibid.*, 23.

³⁷³ *Ibid.*

equality, and its moral stances are key to the development of its anti-trafficking policy.³⁷⁴ Due to Sweden's legislation, official state reports have indicated that Sweden is a less desirable trafficking destination, a claim supported by Latvian criminal investigators.³⁷⁵ A 2003 estimate indicated between 400 and 600 women are brought into Sweden for sex trafficking and exploitation.³⁷⁶ Though it is uncertain how many victims were trafficked into Sweden prior to the enacted legislation, comparisons can be made using neighboring countries, like Finland, which estimates 10,000–15,000 women are trafficked within their borders.³⁷⁷

Sweden believes it has been successful in significantly reducing instances of trafficking. In Stockholm, the police estimate only about 200 women prostitutes in the city of over 2 million people.³⁷⁸ Not all prostitutes are human trafficking victims, but author of *Still Neglecting the Demand That Fuels Human Trafficking*, Marta Johansson argues, criminalizing “all buyers is the most effective way to stop men knowingly or unknowingly buying sex from a trafficked woman,” and that “the market must be tackled.”³⁷⁹

There are a number of criticisms of the Swedish policy and data collected on its success that must be considered in implementing a similar policy in Oregon. One major argument against Sweden's legislation is that attempts to criminalize prostitution, or in Sweden's case the purchase of prostitution services, drives the industry underground and/or abroad to places like Thailand or Eastern Europe.³⁸⁰ While it appears that street prostitution has declined in Sweden, it has been argued that prostitution has simply

³⁷⁴ Picarelli and Jonsson, *Fostering Imagination*, 19.

³⁷⁵ *Ibid.*, 24.

³⁷⁶ *Organisation of Human Trafficking*, 24.

³⁷⁷ “Prostitution Ban Huge Success in Sweden,” HumanTrafficking.org, last modified January 30, 2008, <http://www.humantrafficking.org/updates/838>.

³⁷⁸ Atika Shubert, “The Battle against Sex Trafficking: Sweden vs. Denmark,” *The CNN Freedom Project*, March 30, 2011, <http://thecnnfreedomproject.blogs.cnn.com/2011/03/30/sex-trafficking-countries-take-different-approaches-to-same-problem/>.

³⁷⁹ Hazel Thompson, “Prostitution: Why Swedes Believe They Got It Right,” *The Guardian*, December 11, 2013, <http://www.theguardian.com/global-development/2013/dec/11/prostitution-sweden-model-reform-men-pay-sex>.

³⁸⁰ Picarelli and Jonsson, *Fostering Imagination*, 23.

moved from on the streets to inside or on the internet or pushed the crime abroad, simply moving the crime elsewhere.³⁸¹ Shifting where prostitution happens also reduces access to social services for the victims,³⁸² as well as diminishing the safety of the prostitutes, or victims. Some claim that criminalizing the purchase of sex pushes regular “johns,” or buyers, away and brings only the riskier johns to purchase sex, increasing risks of sexually transmitted infections and violence against women as the women do not have the opportunity to deny dangerous clientele for less dangerous ones.³⁸³ In a survey of 124 sex workers in Sweden, 36 prostitutes (29 percent) experienced violent attacks from johns.³⁸⁴

Legalized prostitution could be argued for as the most effective way to reduce the costs to victims by legalizing the prostitution profession and, thus, decriminalizing the selling of sexual services. The Netherlands, for example, has decriminalized prostitution and lifted bans on brothels and pimping, instead focusing on licensing sex workers and businesses and mandating health requirements and condom use.³⁸⁵ Law enforcement in the country inspects brothels for compliance with licensing requirements and checks for human trafficking indicators.³⁸⁶ Nevada also practices legalized prostitution in certain counties within its borders, enforcing a licensing system and mandatory health inspections.³⁸⁷

In these cases, the argument for legalized prostitution is that these regulated forms of sex work is licensed and inspected, thus allowing consenting sex workers to be separated from trafficking victims. However, a counter-argument for legalized prostitution, as in the case of the Netherlands, is that the promotion of legal prostitution

³⁸¹ Shubert, “The Battle against Sex Trafficking.”

³⁸² Thompson, “Prostitution.”

³⁸³ Elizabeth Nolan Brown, “What the Swedish Model Gets Wrong About Prostitution,” *Time*, July 19, 2014, <http://time.com/3005687/what-the-swedish-model-gets-wrong-about-prostitution/>.

³⁸⁴ Angela Waters, “Sweden Prostitution Reduction Model’s Success a Myth, Skeptics Warn,” *Washington Times*, December 22, 2014, <http://www.washingtontimes.com/news/2014/dec/22/sweden-prostitution-reduction-models-success-a-myt/?page=all>.

³⁸⁵ Rayborn, “Regulated Prostitution,” 9.

³⁸⁶ *Ibid.*

³⁸⁷ *Ibid.*, 7.

and sex tourism generates higher demand that “far outpaces the supply of willing, legal workers.”³⁸⁸ The question of legalizing prostitution as a form of reducing human trafficking, however, is a complex and vastly dynamic one that warrants more extensive research. This thesis concerns itself more narrowly with reducing the costs of trafficking to the trafficked victims.

4. Provide Increased Social Services

Finally, in order to continue to demonstrate to victims that they are not at risk for punishment due to being trafficking victims, social services need to be available to victims to ensure they understand they are victims and feel secure enough to hopefully contribute to the prosecution of their traffickers. Additionally, victims that are here illegally must be convinced and assured that they will not simply be deported and that programs like the T- and U-visas are offered in conjunction with their assistance in prosecuting traffickers. Most importantly, secure housing must be made available for victims. Traffickers control victims and limit their access to basic necessities. Thus, safe and secure housing both protects victims and provides an opportunity to break the ties of the victim to the trafficker.³⁸⁹

The H.E.A.T. Watch unit utilizes this victim-centered approach and provides services to the victims to ensure they feel the systems in place are there to protect and care for their well-being. This has directly affected the willingness of victims to engage in the prosecution of their traffickers, as evidenced by Alameda County’s 81 percent success rate for convictions of human trafficking cases from 2006 to present.³⁹⁰ Sweden also provides social services for its victims, helping prostitutes leave their situation, and providing them with drug withdrawal programs,³⁹¹ counseling, and job skills training in their effort to fight the social problems of prostitution and trafficking.³⁹² Social services to support victims are key in ensuring they feel safe to aid in the prosecution of

³⁸⁸ *Demand. A Comparative Examination*, Shared Hope International, 62.

³⁸⁹ “Human Trafficking in Oregon,” Task Force on Human Trafficking, 8.

³⁹⁰ “H.E.A.T. Watch Toolkit Executive Summary.”

³⁹¹ “Prostitution Ban Huge Success,” HumanTrafficking.org.

³⁹² Picarelli and Jonsson, *Fostering Imagination*, 6.

traffickers and that they do not feel like they are criminals or stigmatized to prevent them from returning to their traffickers out of duress.

5. Influence Consumer Demand for Trafficking-Free Labor Industries

Oregon must raise the costs to employers and businesses engaging in human trafficking or using trafficking victims as labor through increased awareness. As indicated earlier, awareness plays a vital role in increasing risks and costs for users of human trafficking. Increasing public awareness of the problem would cause an increase in responsible business practices through public demand.

As consumers, the general population is able to demand lawmakers and businesses maintain slavery-free and trafficking-free products and supply chains and require leaders take an active role in establishing internal controls to prevent human trafficking from occurring in their business model.³⁹³ Consumers may increase costs and risks to businesses through boycotts, social media campaigns, and petitions pushing for the elimination of human trafficking.³⁹⁴ Consumer demand from an increase in customer awareness has led some companies to engage in human trafficking-conscious business practices. For example, McDonald's and Taco Bell have zero-tolerance policies for slavery and trafficking and use third party monitoring to help enforce these policies.³⁹⁵ These companies have partnered with the Coalition of Immokalee Workers, a human rights organization focused on worker rights in the farming industry,³⁹⁶ to meet fair business practices in farming and prevent human trafficking in its supply chain. Other third party monitoring organizations include Rugmark, which certifies child labor-free rug production, or Fair Trade USA.³⁹⁷

Companies that meet the standards of these organizations can place labels, such as Fair Trade labels, on their products that ensure consumers are purchasing items free of

³⁹³ Kara, "Supply and Demand," 71.

³⁹⁴ Shelley, "A Global Perspective," 310.

³⁹⁵ Ibid.

³⁹⁶ "About CIW," Coalition of Immokalee Workers, accessed August 13, 2016, <http://www.ciw-online.org/about/>.

³⁹⁷ Shelley, "A Global Perspective," 311.

human trafficking. Consumer demand and activism may have significant influence on businesses and their reputation, as companies face potentially unprecedented floods of negative press for poor business practices if they use victims of human trafficking.³⁹⁸ However, companies that respond favorably to consumer demand for responsible business practices can benefit. In 2006, for example, ManpowerGroup became the first global company to sign (as well as help create) the Athens Ethical Principles, a United Nations global initiative to fight human trafficking in business.³⁹⁹ The Athens Ethical Principles guides ManpowerGroup's zero tolerance policy for human trafficking and its efforts in removing the problem from its supply chain, and refusing to work with any vendor, partner, or client who benefits from human trafficking.⁴⁰⁰ The company's stock over the 10 years since signing the Athens Ethical Principles has proven ManpowerGroup's value to consumers through its ethical business practices and it has been able to weather the global economic downturn and still recover successfully.⁴⁰¹

B. INCREASE COSTS TO SUPPLIERS

Reducing costs to the victims of human trafficking in the supply and demand market means that the cost must shift elsewhere. One of the places the costs can shift is to the suppliers of human trafficking, the traffickers themselves. A number of recommendations in this section seek to increase the risks and costs associated with human trafficking in order to affect the cost-benefit analysis of human traffickers and de-incentivize engaging in the industry. If human traffickers feel the costs and risks associated with committing the crime far outweigh the potential profitability, then traffickers will not engage in trafficking and, thus, reduce its prevalence and the number

³⁹⁸ Sally Greenberg, "Power of Social Media: New Wave of Consumer Activism Rising Out of Rana Plaza Tragedy," *Huffington Post*, June 3, 2013, http://www.huffingtonpost.com/sally-greenberg/power-of-social-media-con_b_3378737.html.

³⁹⁹ "ManpowerGroup Escalates Corporate Partnership Effort in the Fight Against Human Trafficking," *PR Newswire*, July 5, 2011, <http://www.prnewswire.com/news-releases/manpowergroup-escalates-corporate-partnership-effort-in-the-fight-against-human-trafficking-125016254.html>.

⁴⁰⁰ "Human Trafficking/Forced Labor," *ManpowerGroup*, accessed August 13, 2016, <http://www.manpowergroup.com/wps/wcm/connect/manpowergroup-en/archive/social-impact/human-trafficking#.V69ZsP72aUk>.

⁴⁰¹ "MAN Historical Prices - ManpowerGroup Common Stock Stock," *Yahoo Finance*, accessed August 13, 2016, <http://finance.yahoo.com/quote/MAN/history?period1=1133337600>.

of victims. Given that Oregon’s lawmakers have indicated that the original intent of Oregon’s human trafficking statutes were to serve as awareness building tools and not prosecutorial methods, the state must reinvigorate its trafficking statutes to allow for stronger prosecution and higher costs to traffickers.⁴⁰²

1. Increase Prosecution Rates—Attack Profitability

Attacking the profitability of human trafficking is the “most effective way ... to elevate real risk.”⁴⁰³ Affecting profitability by raising risks and costs will cause a reduction in trafficking victims, as traffickers will experience either a lower profit or lower chance of profit, making the business less desirable.⁴⁰⁴ Part of increasing risks to traffickers relies on victim care and support, as mentioned earlier, through services and programs in order to maintain continued victim witness participation in the process of investigations and prosecution of traffickers.

California’s H.E.A.T. Watch unit in Alameda County places heavy emphasis on these services to victims, which has contributed to the county’s 81 percent conviction success rate.⁴⁰⁵ Since January 2006, Alameda County’s District Attorney office and its H.E.A.T. Watch unit have charged more than 427 human trafficking cases.⁴⁰⁶ Missouri’s Western District also has an aggressive human trafficking prosecution record, even going as far as being the first to prosecute a parent for trafficking a child and prosecuting more cases than any other United States District Attorney’s office, as of 2013.⁴⁰⁷ The issue is not just that areas experience higher rates of human trafficking, so their conviction rates are proportionate. But there is not enough sufficient data either nationally or regionally to make such an assessment. Either way, the multi-faceted approaches by these two regions

⁴⁰² Burnett et al., “Modern Slavery in Our Midst,” 37.

⁴⁰³ Kara, “Supply and Demand,” 71.

⁴⁰⁴ Ibid.

⁴⁰⁵ “H.E.A.T. Watch Toolkit Executive Summary.”

⁴⁰⁶ Ibid.

⁴⁰⁷ Duncan, “A Tale of Two Districts,” 1.

focus not just on convictions of traffickers (affecting supply), but also on increasing the risks to buyers.⁴⁰⁸

The Western District of Missouri has increased prosecution rates, relying, in part, to federal funding to their task force that allowed them to hire more detectives for human trafficking cases,⁴⁰⁹ which clearly demonstrates the need for increased funding. However, its success is also due to the increased awareness through its media engagement discussed earlier. Though Missouri's anti-human trafficking policies are not complete, missing focusing awareness on labor trafficking, increasing costs to buyers, and reducing costs to victims in the economic human trafficking market, it has certainly been a leader in increasing costs and risks to traffickers, handling one side of the supply and demand model.

2. Combine Legislation with Prosecution

Part of Missouri's success stems from combining its human trafficking prosecutions with other legislation that allows the District Attorney to layer charges against traffickers, increasing their punishments and chances of conviction, thus increasing their costs and risks for engaging in human trafficking. For example, the Western District was "the first to combine the TVPA with the Racketeering Influenced and Corrupt Organizations Act (RICO) ... [in order] to charge an international trafficking enterprise."⁴¹⁰ RICO is a federal law that establishes criminal penalties for the crime of racketeering against persons who perform acts "as part of an ongoing criminal organization" and who is a member of an organization or enterprise that has committed two of 27 federal and eight state crimes within a 10-year period.⁴¹¹ This layered approach allows victims protection under a federal umbrella, not just state, and increases the severity of punishment against a trafficker.

⁴⁰⁸ Ibid.

⁴⁰⁹ Ibid., 16.

⁴¹⁰ Ibid., 8.

⁴¹¹ Ibid.

The basic structure for such an approach already exists in Oregon. For example, ORS § 163.432 and § 163.433 establish state law prohibiting online sexual corruption of a child in the second and first degree.⁴¹² Currently, these statutes establish the statutory minimum for these crimes as Class C (up to five years in prison and \$125,000 fine) and Class B (up to 10 years in prison and \$250,000 fine) felonies, respectively.⁴¹³ Oregon could combine charges under these statutes with the Computer Fraud and Abuse Act, which establishes that anyone who “knowingly and with intent to defraud ... and by means of such conduct furthers the intended fraud and obtains anything of value” over a value of 5,000 dollars is punishable up to five years in prison and a fine.⁴¹⁴

Prosecuting the misuse of computers by traffickers along with trafficking charges can be one more tool used in the prosecution of traffickers.⁴¹⁵ Investigators already work with internet service providers (ISP) to identify the addresses of computers linked to downloading or visiting sites hosting child pornography, as ISPs are required to report known incidents of the consumption or hosting of child pornography.⁴¹⁶ In identifying human trafficking cases in Oregon, investigators can evaluate any cases related to online advertisements, such as on backpage.com,⁴¹⁷ and bring charges under state law and the Computer Fraud and Abuse Act statute in order to prosecute traffickers of both minor and adult victims.

3. Increase Punishments to Traffickers

Oregon should also increase the fees and punishments for traffickers, strengthening its human trafficking statutes. The gaps in Oregon’s legislative efforts treat the punishments of traffickers with more leniency than should be afforded. The

⁴¹² 2015 Analysis and Recommendations Oregon, Shared Hope International.

⁴¹³ Ibid.

⁴¹⁴ “18 U.S. Code § 1030 - Fraud and Related Activity in Connection with Computers,” LII / Legal Information Institute, accessed July 31, 2016, <https://www.law.cornell.edu/uscode/text/18/1030>.

⁴¹⁵ Burnett et al., “Modern Slavery in Our Midst,” 3.

⁴¹⁶ Shelley, “A Global Perspective,” 314.

⁴¹⁷ Penny Nance, “Stop Selling Women: Backpage.com Getting Away with Sex-Trafficking,” *Breitbart News*, October 28, 2014, <http://www.breitbart.com/big-government/2014/10/28/stop-selling-women-backpage-getting-away-with-sex-trafficking/>.

trafficking in persons statute prescribes a Class A felony in Oregon, but given that there has yet to be a successful conviction under Oregon's trafficking in persons statute, (sex) traffickers are charged with compelling prostitution, a felony that results in a maximum of 10 years in prison and \$125,000 in fines.⁴¹⁸ Labor traffickers should be punished more harshly. Thus, Oregon needs to increase the maximum punishments available, offering leniency only to those traffickers who provide accomplice testimony to identify other traffickers within their network in exchange for a lighter sentence. Because "most human trafficking investigations target only the lowest level of criminal participants, leaving human trafficking networks in place,"⁴¹⁹ reduced sentences for accomplice testimony from traffickers would increase the costs and risks to traffickers. Even if a trafficker is higher up in an organization or chain of traffickers, the threat or risk of their collaborating traffickers "snitching" on them if they are caught becomes an elevated risk.

In addition to more severe prison sentences and steeper fines, traffickers should be subject to asset seizure. Seizing homes, cars, and other assets will not only provide needed resources for reparations for victims and services for human trafficking victims,⁴²⁰ but also prevents the future use of these resources in human trafficking operations. Increasing not just the possible fines, but also introducing the possibility of asset forfeiture, provides a cognizable value on the costs and risks associated with human trafficking. Increasing the fine, coupled with a clear resource cost, would elevate the risk, creating a disincentive for the traffickers and resulting in a shift of the supply curve.

Lastly, Oregon must ensure sentencing includes sex offender registration for traffickers. Under ORS § 181.805-181.814, a person convicted of a sex crime is required to register as a sex offender, including convicted sex traffickers.⁴²¹ In addition, Oregon should coordinate the release of trafficker convictions to the media and consider a public notification system or website that provides information and public notification on the new registration of a sex offender and trafficker. This would be in addition to the sex

⁴¹⁸ 2015 Analysis and Recommendations Oregon, Shared Hope International.

⁴¹⁹ Shelley, "A Global Perspective," 321

⁴²⁰ Ibid.

⁴²¹ 2015 Analysis and Recommendations Oregon, Shared Hope International.

offender registry. A public notification website would provide one more cost to the trafficker through damage to their public reputation, similar to mugshots.com.

C. INCREASE COSTS TO BUYERS

The demand for human trafficking cannot be ignored and left undeterred. Demand will spur greater growth of human trafficking by providing “a profit-incentive for traffickers” to exploit victims.⁴²² Dramatically increasing the costs and risks of using or buying “human trafficking goods” and placing more responsibility on the demand side of the market will reduce human trafficking by discouraging consumers from engaging in the use of trafficking victims.⁴²³ If Oregon were to place increased penalties on not only the supply side of the human trafficking market, but the demand side as well, then the perceived risks and costs of human trafficking would become economically disadvantageous.⁴²⁴

This section provides recommended policies for increasing costs to buyers of human trafficking, or those using the services, under the idea that Oregon must increase penalties on the demand side of the market alongside the supply. For the purposes of this section, consumers and consumer demand refer to the sex buyers, businesses, corporations, and employers (though general consumers are a part of a legitimate market’s demand and can influence the demand of the human trafficking market, they are not the demand curve of the human trafficking market). Additionally, businesses, such as farms or logging companies, can be both suppliers and demanders, but for the purposes of this thesis, they are defined as demanders that use victims to create goods or services for a legal market (i.e., the general population).

⁴²² Department of State, *U.S. Government Efforts to Fight Demand Fueling Human Trafficking* (Washington, DC: Department of State, January 7, 2008), <http://2001-2009.state.gov/g/tip/rls/fs/08/100208.htm>.

⁴²³ Ibid.

⁴²⁴ Kara, “Supply and Demand,” 71.

1. Evaluate Elasticity of Demand

The elasticity of demand must be considered when determining how to employ the cost-benefit analysis to impact the human trafficking market. As discussed in Chapter 2, the elasticity of demand influences how the demand curve fluctuates in response to inputs. Due to the hidden nature of human trafficking and the difficulty of identifying victims of the crime, there is little understanding of the elasticity of demand in human trafficking.⁴²⁵ Critically thinking, however, with enough heavy input, the demand for human trafficking can become quite elastic. In terms of human trafficking, the availability of substitutes becomes a factor in that, although one cannot create cheap substitutes for sexual services or forced labor, forcing increased costs and risks would indirectly drive the “price” for cheap labor or sex higher than legitimate forms of sex or labor.

As to the degree of necessity or luxury of human trafficking, paid sex and cheap labor are not a necessity in everyday life for consumers and would be considered a luxury. Increasing the costs of having or using this luxury makes the goods of human trafficking less wanted or needed and, thus, increases the elasticity of demand. Increasing costs and risks, such as prosecution, punishments, and fines, causes consumers to potentially require a larger portion (or a larger risk for a larger portion) of their income to use trafficked humans. As Oregon implements these recommended policies for increasing risks in order to reduce demand, it becomes a permanent change and the demand from consumers becomes more elastic as the risks and costs overcome the habits and desires for human trafficking goods.

2. Increase Focus on Prosecution of Sex Buyers

While prostitution is, essentially, a form of forced labor (sex work for money), it brings with it its own set of social issues and unique factors that influence that sector of the industry. The forced labor of runaways, youth, women, or minors (and occasionally men) for sex are influenced by profit, as forced labor is generally, but also falls into social mores regarding the prostitution and sex industry. The social issues that influence

⁴²⁵ Bales, Fletcher, and Stover, “Hidden Slaves,” 105.

someone's choice to engage in prostitution also factor into the forced labor of a victim into sex either through his or her trafficker or pimp.

Addressing the statistically identified larger problem of sex trafficking first, Oregon has to place higher costs and risks on the consumers, or johns. In conjunction with the recommended policy of decriminalizing the sale of sexual services, Oregon must strengthen the criminalization of the purchase of sexual services.⁴²⁶ Oregon must learn from Sweden in its policies against human trafficking. Sweden aimed to criminalize the demand for sex trafficking through criminalizing the purchase of sexual services.⁴²⁷ The purchase of sexual services in Sweden carries punishments of fines,⁴²⁸ up to four years in prison, and an “embarrassingly public police notification.”⁴²⁹ Additionally, the buying of sexual services from someone under the age of 18 years is punishable with up to two years imprisonment.⁴³⁰

Taped phone conversations during Swedish police investigations showed that traffickers had trouble with the Swedish law because they lost the ability to use street prostitution, Swedish men feared arrest and needed to exercise more costly discretion, and traffickers needed to spend more on local contacts and apartment brothels to avoid detection.⁴³¹ The investigations also found that traffickers favored operating in countries that tolerated or legalized prostitution, like the Netherlands.⁴³² In fact, according to Shared Hope International, a regulated and legalized commercial sex market creates a tolerance and normalization of commercial sexual services that facilitates the expansion of the industry into a secondary market where trafficked victims are used in a thriving illegal market.⁴³³

⁴²⁶ “Prostitution, Pimping, and Pandering Laws,” CriminalDefenseLawyer.com.

⁴²⁷ Picarelli and Jonsson, *Fostering Imagination*.

⁴²⁸ *Ibid.*, 23.

⁴²⁹ Shubert, “The Battle against Sex Trafficking.”

⁴³⁰ Picarelli and Jonsson, *Fostering Imagination*, 23.

⁴³¹ Niklas Jakobsson and Andreas Kotsadam, “The Law and Economics of International Sex Slavery: Prostitution Laws and Trafficking for Sexual Exploitation,” *European Journal of Law and Economics* 35, no. 1 (2011): 101.

⁴³² *Ibid.*

⁴³³ *Demand. A Comparative Examination*, Shared Hope International, 47–48.

Driving human trafficking abroad and forcing buyers to engage in sex tourism is certainly a concern. However, for most buyers, this is more cost prohibitive and less likely as a substitute for demand. Buyers who truly want to purchase sex will conduct their personal cost-benefit analysis and, finding the risks still acceptable, pay for services in Oregon or abroad through sex tourism. However, many buyers will choose not to engage in these services as a result of the increased costs and risks of prosecution or even increased financial costs of sex tourism.

Buyers fall into three categories of buyers: situational, preferential, and opportunistic.⁴³⁴ Situational buyers purchase sexual services because its available or tolerated and “happens” across the chance to purchase sex, preferential buyers purchase services as they prefer to use the services of sex workers and trafficking victims or certain races or ages of victims (unknowingly or knowingly, perhaps through sexual addiction or desire), and opportunistic buyers purchase sex because they “indiscriminately ... do not care, are willfully blind to the age or willingness of the [victim], or are unable to differentiate between adults and minors.”⁴³⁵ While preferential, and to an extent opportunistic, buyers will likely still engage in the purchase of sexual services and, if financially able, participate in sex tourism, driving up the costs and risks for traffickers and buyers in Oregon will help in reducing demand among the situational and opportunistic buyers. Similarly, given Oregon’s geographic location and limited major interstate highways through the state, pushing human trafficking outside of Oregon to neighboring states does not necessarily increase human trafficking as a whole.

3. Make Sex Offender Registration Mandatory

Oregon remains lenient on current sex crime offenders, contributing to an ideal market for buyers seeking to exonerate themselves from hefty fines or penalties associated with human trafficking. Currently, first-time offenders convicted of purchasing sex with a minor are only required to register as a sex offender at the court’s discretion, where a second conviction or a conviction for trafficking in persons mandates

⁴³⁴ Ibid., 3.

⁴³⁵ Ibid., 7.

sex offender registration.⁴³⁶ While this requirement sounds ideal in that trafficking in persons offenses should require sex offender registration, remember that no cases have been successfully prosecuted under Oregon's trafficking in persons statute. It is more likely that charges are made under patronizing and purchasing sex with a minor, even if the prostitute is a victim of human trafficking.

As such, leaving sex offender registration for purchasing sex with a minor up to the court's discretion rather than mandating it reduces the risks associated with the crime. In addition to not mandating sex offender registration for first time offenses of purchasing sex with minors, Oregon is already lacking in its severity of the crime by placing the purchase of sex with minors as Class B and C felonies, instead of a Class A felony, leaving minor victims holding more of the risks associated with prostitution. Additionally, although patronizing is considered a sex crime in Oregon, there is no requirement for sex offender registration, leaving a hole in the risks associated with purchasing sex from an adult human trafficking victim. While sex offender registration does not reduce recidivism,⁴³⁷ per se, close monitoring of high-risk repeat sex offenders released on probation does contribute to a reduction in recidivism for sex offenses.⁴³⁸

Registration in Oregon, then, should be mandated but implemented based off the different grades of sex offenders (Level 1, low-risk for recidivism, to Level 3, high-risk for recidivism).⁴³⁹ Levels 1 and 2 sex offenders should have the opportunity to expunge their record through a diversion program (more on this shortly) aimed at educating them on the risks associated with purchasing sex, including the issues of human trafficking. This would provide a small incentive for buyers who have already been caught to try to reduce some of the costs placed on them (i.e., sex offender registration). That would

⁴³⁶ "Oregon Report Card 2015," Shared Hope International.

⁴³⁷ Paul Heroux, "Do Sex Offender Registries Reduce Recidivism?," *Huffington Post*, February 24, 2015, http://www.huffingtonpost.com/paul-heroux/do-sex-offehttp://www.huffingtonpost.com/paul-heroux/do-sex-offender-registrie_b_6738590.htmlnder-registrie_b_6738590.html.

⁴³⁸ Hal Arkowitz and Scott O. Lilienfeld, "Once a Sex Offender, Always a Sex Offender? Maybe Not," *Scientific American*, April 1, 2008, <http://www.scientificamerican.com/article/misunderstood-crimes/>.

⁴³⁹ Paul Heroux, "Sex Offenders: Recidivism, Re-Entry Policy and Facts," *Huffington Post*, November 08, 2011, http://www.huffingtonpost.com/paul-heroux/sex-offenders-recidivism_b_976765.html.

leave the Level 3 sex offenders under close monitoring, if they receive probation, and place the high costs and risks on the high-risk buyers who are likely to repeat offend, separating those who have paid their dues to society and those who are unlikely to learn from their mistakes.

4. Publicize Sex Buyers' Identities More Widely

Oregon should also continue to layer on risks and costs associated with sex trafficking crimes (and prostitution) through a public notification system, such as a website. A number of locations have given credit to a public notification system of sex offenders and johns in contributing the reduction of sex trafficking and prostitution consumers. The embarrassment and humiliation of a buyer's community knowing they purchased sexual services and having that as a risk that must be accounted for in weighing the costs against the benefits of purchasing commercial sex (and sex trafficking victims) can shift the scale of benefit to cost.

Sweden, as noted, sends out public police notifications of buyers of sexual services. Omaha, Nebraska places billboards with the tagline "if you are convicted of soliciting a prostitute, you will see your name here," alongside a publicized list of names.⁴⁴⁰ Ohio has a similar program, operating its website "Operation John Be Gone" that posts pictures of men who solicited prostitution.⁴⁴¹ In its first year, Ohio's website drew in 100,000 hits.⁴⁴² Fresno, California aggressively posted identifying information on johns in their "Operation Reveal" program.⁴⁴³ This publicizing of identities, or shaming, of arrested buyers of sex occurs in over 850 cities and counties in the United States.⁴⁴⁴ In a Chicago study to deconstruct demand for prostitution and identify deterrents for purchasing sex, 87 percent of men identified public exposure as a method of deterring

⁴⁴⁰ Department of State, *U.S. Government Efforts to Fight Demand*.

⁴⁴¹ *Ibid.*

⁴⁴² *Ibid.*

⁴⁴³ Michael Shiveley et al., *An Overview of Shaming Applied to Sex Buyers in the United States*, Report, January 7, 2012, <http://www.demandforum.net/wp-content/uploads/2012/01/shaming-overview-from-national-assessment.pdf>.

⁴⁴⁴ "Shaming," DEMANDforum.net, accessed August 7, 2016, <http://www.demandforum.net/shaming/>.

them from buying sex, with 83 percent indicating jail time and 79 percent indicating a letter sent to their family being the next two highest deterrents.⁴⁴⁵

While Oregon provides public notifications in some cities by releasing photos and information to the media, or “Dear John” letters in some cases to their households,⁴⁴⁶ this usually relies on the media to run the story rather than display it on a much more public and accessible interface, like a billboard or website. Given the high percentage of buyers who indicate the higher risks of public exposure would deter them from purchasing sex, a public notification program would greatly enhance the state’s ability to reduce buyer demand. Additionally, increased media awareness surrounding these public notifications can also increase the general awareness of human trafficking.

5. Strengthen Johns’ Schools

Finally, under the sex trafficking focus, Oregon must strengthen and adapt its Sex Buyer and Accountability Diversion Program (SBAD), or johns’ school, not just in Portland, but throughout the state. Oregon’s third iteration of a johns’ school program started in 2011 and is currently running, centered in Portland and Multnomah County.⁴⁴⁷ With a high enrollment fee of \$1,000, the SBAD is a diversion program for johns who purchase sex, or those charged with patronizing, meant to educate program participants about the issues surrounding the solicitation of prostitution.⁴⁴⁸ The enrollment fee makes the program self-sustaining and is only authorized for first time offenders, giving them six months to take the course and remain arrest free.⁴⁴⁹ Portland’s SBAD is modeled after

⁴⁴⁵ Rachel Duchslag and Samir Goswami, *Deconstructing The Demand for Prostitution: Preliminary Insights From Interviews With Chicago Men Who Purchase Sex*, Report, May 2008, <http://www.slaverynomore.org/wp-content/uploads/2011/07/Deconstructing-the-Demand-for-Prostitution.pdf>.

⁴⁴⁶ “Browse Locations,” DEMANDforum.net, accessed August 7, 2016, <http://www.demandforum.net/list-view/>.

⁴⁴⁷ “Portland, OR,” DEMANDforum.net, accessed August 12, 2016, <http://www.demandforum.net/site/portland-or/>.

⁴⁴⁸ Ibid.

⁴⁴⁹ “Sex Buyer Accountability and Diversion Program Marks First Year,” *Multnomah County*, February 2, 2012, <https://multco.us/ds4/news/sex-buyer-accountability-and-diversion-program-marks-first-year>.

San Francisco's First Offender Prostitution Program,⁴⁵⁰ which is the longest running johns' school in the country⁴⁵¹ and has reduced recidivism by over 40 percent.⁴⁵²

Oregon must continue its current johns' school model, including keeping the enrollment fee high to both sustain the program and to place a higher cost on purchasers of sex.⁴⁵³ Oregon's attempts at running a sex buyer education program has failed twice, with only the third iteration charging high enough fees to sustain itself. Additionally, Oregon's johns' school program should not be limited to just the Portland area, but implemented throughout the state in major metro hub areas. Reducing the demand for sex in the Portland area may affect human trafficking in the area, but could also push trafficking to other areas in the state or outside the state. Reducing demand must be inclusive of the entire state, as the supply and demand for human trafficking runs throughout Oregon.

6. Increase Costs to Employers and Businesses

Beyond raising customer awareness to push for ethical business practices from companies, Oregon must raise costs and risks to employers and businesses operating within its borders through legislative policies and enforcement. The costs and risks associated with the demand for human trafficking must restrict buyers and users enough that they find the benefits of using human trafficking do not outweigh the costs; it must be flexible so that costs associated with human trafficking use continue to remain higher than the costs of conducting legitimate business, accounting for elasticity of demand. Oregon must begin to engage the business sector and develop anti-human trafficking policies where "financial interests conflict with good corporate behavior"⁴⁵⁴ in order to successfully modify behavior and affect human trafficking demand and use.

⁴⁵⁰ "Portland, OR," DEMANDforum.net.

⁴⁵¹ Burnett et al., "Modern Slavery in Our Midst," 93.

⁴⁵² "Shaming," DEMANDforum.net.

⁴⁵³ Burnett et al., "Modern Slavery in Our Midst," 93.

⁴⁵⁴ Shelley, "A Global Perspective," 314.

Oregon must first increase and improve legal protections for workers and increase the monitoring of workers in industries that are at high risk for human trafficking, such as the farming, food service, domestic labor, hospitality, logging, and clothing manufacturing industries.⁴⁵⁵ Improving legal protections to promote safer work environments would aid Oregon in monitoring violations of labor laws and practices, increasing risks and costs to employers and businesses for engaging in human trafficking.⁴⁵⁶ Targeting resources into high-risk industries will help direct limited resources into efforts that would contribute to the reduction in labor trafficking through reducing demand, especially where increasing costs to companies that profit from products or services using human trafficking in their supply chains can shift the cost-benefit analysis.⁴⁵⁷

Finally, Oregon should continue to increase risks and costs to the demand side of labor trafficking through fines and punishments for businesses and employers operating within Oregon. Increasing the imposition of fines and seizure of assets for reparations and payment of damages from businesspersons and employers that engage in human trafficking, similar to the punishments traffickers of sex, drugs, and arms face,⁴⁵⁸ will create another risk for the demand of human trafficking. Oregon should consider implementing a tiered system of punishment for businesses operating in Oregon that have a history of using human trafficking.

Employers that fail to remove human trafficking from their business chain as first time offenders should face fines commensurate to the difference in cost that would have been incurred from employing someone legally versus a human trafficking victim, plus interest, payable to the victim, plus additional fees and penalties determined by the court. Second time offenders that fail to eliminate human trafficking from their businesses face seizure of assets in addition to fines. If businesses continue to fail to eradicate human trafficking from their chain, or for cases of egregious trafficking violations, Oregon

⁴⁵⁵ Bales, Fletcher, and Stover, "Hidden Slaves," 50.

⁴⁵⁶ *Ibid.*, 106.

⁴⁵⁷ *Ibid.*, 105.

⁴⁵⁸ Shelley, "A Global Perspective," 315.

should force closures of businesses or remove their ability to operate within Oregon. This is not an unreasonable penalty as Oregon has set the precedent in the past when a restaurant chain was accused of using labor trafficking and forced by BOLI to cease operations in Oregon and pay reparations into a settlement trust fund.⁴⁵⁹

7. Increase Oregon Bureau of Labor and Industries Oversight

Oregon's Bureau of Labor and Industries should work jointly with law enforcement to identify potential labor trafficking victims. BOLI oversight on labor practices in Oregon can contribute greatly to reducing labor trafficking incidents, as BOLI is the state's labor enforcement entity that, if coordinated thoroughly and effectively with law enforcement, is in an advantageous situation to identify labor trafficking cases and raise awareness with employers and companies regarding this violation of labor laws and human rights.⁴⁶⁰

Local law enforcement resources are limited in outlying regions of Oregon and local law enforcement may be complacent when identifying labor trafficking.⁴⁶¹ As a result, reliance on labor trafficking identification cannot rely solely on law enforcement. Oregon's Bureau of Labor and Industries, then, is in a prime position to affect labor trafficking in Oregon and provide another avenue for labor trafficking identification. As businesses already interact with BOLI, it should be required by BOLI for employers to increase their education and informational distribution regarding human trafficking to workers more frequently. As of now, BOLI only provides this information at the initial contact with workers;⁴⁶² once workers continue on to their employers, they may become subject to human trafficking (e.g., having their documents or pay taken from them). Additionally, language barriers and overwhelming paperwork during the approval and intake process often cause the information to be lost or forgotten. BOLI should require

⁴⁵⁹ Bernstein, "Oregon's Federal Prosecutor."

⁴⁶⁰ Burnett et al., "Modern Slavery in Our Midst," 43.

⁴⁶¹ Bales, Fletcher, and Stover, "Hidden Slaves," 97.

⁴⁶² Burnett et al., "Modern Slavery in Our Midst," 42.

high-risk industry businesses and employers to provide regular workers' rights and conflict resolution information at regular intervals during employment.

BOLI should also increase its cooperation with law enforcement and create a system to receive regular interval reporting from employers on workers that have passed through BOLI for employment in high-risk industries. Although this will not capture all possible human trafficking victims, such as those smuggled into camps or farms, it does provide another point of oversight at the state level. As stated earlier, if employers feel BOLI is hunting violators, they will be less likely and less willing to hire human trafficking victims for fear of facing legal punishments, which increases the risks and costs for use of labor trafficking victims.⁴⁶³ Implementing a system for checking on employers and businesses and auditing employees for human trafficking victims will help not only create a higher cost of doing business with human trafficking, but it will also establish a foundation for a system to receive and categorize statistical data on labor trafficking, which is much needed. This data will aid both Oregon and the United States in improving and refining their human trafficking policies.

D. FURTHER RESEARCH

Research during this thesis was impacted by the difficulty in acquiring adequate statistical data and information on the largely hidden, underground crime of human trafficking. One of the challenges focused on attempting to identify if and where Swedish policies caused human trafficking to shift abroad. Many scholarly articles and links would lead to broken or dead sites. As more countries and regions adopt a Swedish-based prostitution policy, the ramifications on sex trafficking is one avenue of research that could prove fruitful in identifying if universal implementation of such a policy would reduce human trafficking.

1. Introducing Incentives

Employing an applied theory of economics and introducing positive incentives as a means of affecting the cost-benefit analysis and reducing human trafficking warrants

⁴⁶³ Ibid., 44.

further research and could be another thesis topic itself. The challenge with introducing and applying incentives as a policy recommendation for reducing human trafficking rests on currently lacking research and literature on incentives for behavior change. Some potential opportunities for research into introducing incentives to reduce human trafficking are tax incentives for companies that prove an elimination of human trafficking within their supply chain. For example, Oregon provides tax rebates and incentives for commercial buildings that meet LEED-certified and energy efficient building standards.⁴⁶⁴ Evaluating if companies decide to build more energy efficient, and thus more costly, buildings for tax incentives would give some insight into incentives for businesses to eliminate human trafficking in their supply chain. On the sex trafficking side for buyers, introducing incentives certainly needs some evaluation and assessment if this type of initiative would cause buyers to adjust their demand. It is unclear whether any incentives would work for the supply side of human trafficking and, thus, influence traffickers.

2. Legalizing Prostitution

Legalizing prostitution has its camps of advocates and critics. The argument for legalized prostitution is based on the premise that regulation of the sex work industry will allow governments to license and inspect businesses and brothels and provides easier separation of consenting sex workers from human trafficking victims. Critics say that legalizing prostitution creates a culture of acceptance and blind disregard for trafficking as there is no distinguishing between consenting sex worker and a trafficking victim; a legalized sex industry then spreads sex work beyond the legal market and into surrounding and growing illegal markets, such as in the Netherlands.⁴⁶⁵ Culturally, the United States as a whole may not be willing to accept the legalization of prostitution. The cultural and social implications of legalizing prostitution extend beyond simple workers' rights. Workers' rights and taxation methods, dogmatic objections to the immorality of

⁴⁶⁴ "Tax Incentives for LEED and Energy-Efficient Commercial Buildings," Bronze Construction Services Inc., last modified October 7, 2013, <http://www.bronzeconstruction.net/blog/tax-incentives-for-leed-and-energy-efficient-commercial-buildings/>.

⁴⁶⁵ *Demand. A Comparative Examination*, Shared Hope International, 62.

prostitution,⁴⁶⁶ and implications of employment rights and laws (such as issues with client discrimination) are all considerations that must be made when suggesting the legalization of prostitution.

As a former prostitute and Amsterdam Councilwoman, Karina Schaapman criticizes legalizing prostitution by indicating, “legalizing prostitution was infused with the idea of the articulate prostitute, who should get rights and better working conditions. But that image is incorrect ... Two thirds of prostitutes are foreign, most often illegal and nobody is registering.”⁴⁶⁷ At least in the Netherlands, an increase in human trafficking is has been the result of legalized prostitution. Minors and foreigners are brought out to work during late hours when police are no longer on duty and brothel owners often do not ask or care about identification or registration of their workers.⁴⁶⁸ However, advocates argue that regulated and transparent prostitution is the best way to reduce human trafficking because providing a regulated market for commercial sex provides supplies and goods for the demand surrounding the centuries-old profession.⁴⁶⁹ Advocates also argue that countries, such as the Netherlands, fail in regulating legal prostitution by failing to provide the necessary regulatory infrastructure and sufficient resources.⁴⁷⁰ The challenge in determining whether legalized prostitution will reduce human trafficking, at least sex trafficking, certainly warrants more research.

3. Addressing Root Causes of Trafficking Vulnerabilities

Human trafficking is a deeply rooted problem that suffers and results from a number of social, economic, and cultural issues. Poverty and discrimination of minority groups and women are two major social issues that cause vulnerability for trafficking.⁴⁷¹ Economic disparities, especially when coupled with violent conflicts or natural

⁴⁶⁶ Rayborn, “Regulated Prostitution,” 5.

⁴⁶⁷ *Demand. A Comparative Examination*, Shared Hope International, 57.

⁴⁶⁸ *Ibid.*, 64.

⁴⁶⁹ Rayborn, “Regulated Prostitution,” 10.

⁴⁷⁰ *Ibid.*

⁴⁷¹ *Organisation of Human Trafficking*, 8.

disasters,⁴⁷² create peoples who are prone to exploitation by traffickers.⁴⁷³ In addition to poverty and unequal income distribution, a low literacy rate or lack of education also place populations at risk for exploitation.⁴⁷⁴ Thus, in order to truly reduce and aim to eliminate human trafficking, policies must be enacted that address not just the end of the supply chain, but the beginning as well. Addressing the deep social problems that cause trafficking vulnerabilities would help reduce the number of vulnerable people for trafficking exploitation.

Criminals, terrorists, and organized crime groups capitalize on vulnerable populations and profit greatly. Women and girls, for example, who lack education and have minimal economic status, deprived of opportunities in their town or country, find themselves looking for work to try to support their families.⁴⁷⁵ Vulnerable populations are enticed by advertisements for high-paying jobs, are more willing to pay to be smuggled into another country with more opportunity, or are lured into a situation where traffickers remove their documents and cause the victims to end up in a trafficking situation.⁴⁷⁶ Governments must work systematically to end the social and economic issues that lead to a lack of education, gender and minority inequality, poverty, and economic injustices as a precursor to combating human trafficking.

These issues create greater problems beyond just human trafficking, but effective government response to human trafficking must be based on valid and valuable social services available to all people. Providing victims' assistance programs, training programs, and NGO and government coordination,⁴⁷⁷ are just a few of a number of ways that social services and programs can be tailored to affect the deep-rooted social issues that influence the creation of populations vulnerable to trafficking. Without adequate

⁴⁷² Gergana Danailova-Trainor and Patrick Belser, *Globalization and the Illicit Market for Human Trafficking: An Empirical Analysis of Supply and Demand*, Report no. WP.53, Special Action Programme to Combat Forced Labour (Geneva: International Labour Office, 2006), 9.

⁴⁷³ Shelley, *A Global Perspective*, 57–58.

⁴⁷⁴ Danailova-Trainor, *Globalization and the Illicit Market*, 9.

⁴⁷⁵ Shelley, "International Trafficking," 138.

⁴⁷⁶ Department of State, *Trafficking in Persons Report*, 15.

⁴⁷⁷ Shelley, *A Global Perspective*, 321.

social services aimed to reduce vulnerable people, there will be an ever-growing population for traffickers to exploit, regardless of the effectiveness of anti-human trafficking policies on the back end.

E. FINAL THOUGHTS

Human trafficking is a highly complex, nuanced, and multi-faceted issue that cannot be handled with any one-size-fits-all approach. Different countries and regions face different cultural, social, and economic factors that influence the prevalence of human trafficking. Even between states, the crime of human trafficking differs in type and prevalence. Anti-human trafficking policies must be developed contextually with an understanding of the specific issues and influencing factors surrounding human trafficking within each country or state. In order to do that, sufficient research and data is needed to provide policymakers with a clear picture of the problem and its consequences within their borders. Accurate acquisition of data and indispensable, factual information is vital to providing policymakers with a true picture of the issue of human trafficking, both nationally and within each state. True, accessible, and relevant data gives policymakers and researchers insight into the best methods to reduce human trafficking.

Yet human trafficking is part of a larger criminal industry with the key factors of supply and demand that establish the market for the crime. As such, policies adopting an applied theory of economics may influence the market and reduce the number of trafficking victims. This model, however, is not all-inclusive and there can always be more to be done to truly affect the problem. This thesis has provided some recommendations for policies within the context of Oregon, however, many of the lessons learned are not exclusive to Oregon and can be adapted and applied to other states based on the human trafficking market within that region. But, at the base of it all, increasing awareness among the general population about the issue and reducing the costs to victims is always a good starting point to begin to change the landscape of the human trafficking industry.

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